

## 1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF PUERTO RICO

3  
4 UNITED STATES OF AMERICA, )  
 )  
5 Plaintiff, ) Case No. 08-0310  
 )  
6 vs. )  
 )  
7 WILFREDO ROSARIO-CAMACHO, )  
 LUIS RODRIGUEZ-SOSTRE, )  
8 JOSUE PEREZ-MERCADO, )  
 RAMON MAYSONET-SOLER, )  
9 JOSE NEGRON-SOSTRE, )  
 )  
10 Defendants. )

11  
12 EVIDENTIARY HEARING

13 BEFORE THE HONORABLE FRANCISCO A. BESOSA

14 HATO REY, PUERTO RICO

15 WEDNESDAY, JULY 6, 2011, 9:20 A.M.

16  
17 APPEARANCES:

18 FOR THE PLAINTIFF: OLGA CASTELLON,  
TIMOTHY HENWOOD,  
19 ASSISTANT U.S. ATTORNEYS

20 FOR THE DEFENDANTS: FRANCISCO DOLZ-SANCHEZ, ESQ.  
MARIANGELA TIRADO-VALES, ESQ.  
21 MIRIAM RAMOS-GRATEROLES, ESQ.  
ALEXANDER ZENO, ESQ.  
22 RAMON GARAY-MEDINA, ESQ.  
JUDITH MIZNER, ESQ.  
23 JORGE RIVERA ORTIZ, ESQ.  
ALLISON KOURY, ESQ.  
24 JUAN HERNANDEZ, ESQ.  
IGNACIO FERNANDEZ, ESQ.  
25

1           **THE CLERK:** Criminal 08-310, United States of America  
2 versus Wilfredo Rosario Camacho, Luis Rodriguez Sostre, Josue  
3 Perez Mercado, Ramon Maysonet Soler, Jose Negron Sostre for  
4 evidentiary hearing.

5           On behalf of the Government, Assistant U.S. Attorneys  
6 Olga Castellon and Timothy Henwood.

7           On behalf of Defendants, attorneys Francisco Dolz,  
8 Judith Mizner, Jorge Rivera Ortiz, Mariangela Tirado, Allison  
9 Koury, Miriam Ramos, Alexander Zeno, Juan Hernandez Lopez de  
10 Victoria, Ignacio Fernandez and Ramon Garay.

11           Defendants are present and assisted by the court  
12 interpreter.

13           **MS. CASTELLON:** Good morning, Your Honor, AUSA Olga  
14 Castellon for the Government. We are ready to proceed.

15           **MR. FERNANDEZ:** Good morning, Your Honor, Ignacio  
16 Fernandez on behalf of Jorge Negron -- I'm sorry, Jose Negron  
17 Sostre. We're ready to proceed.

18           **MR. HERNANDEZ:** Good morning, Your Honor, Juan J.  
19 Hernandez Lopez de Victoria on behalf of Ramon Maysonet Soler.  
20 We're ready to proceed.

21           **MS. MIZNER:** Good morning, Your Honor, Judith Mizner  
22 on behalf of Wilfredo Rosario Camacho. We're ready to  
23 proceed.

24           **MR. RIVERA:** Good morning, Your Honor, Attorney Jorge  
25 Rivera on behalf of Luis Rodriguez Sostre. We're ready to

1 proceed.

2           **MS. KOURY:** And Allison Koury on behalf of Mr. Perez  
3 Mercado. We're ready.

4           **THE COURT:** First I want to welcome Ms. Mizner and  
5 Ms. Koury to this district. We have here this evidentiary  
6 hearing to supplement the record as requested by Defendants.

7           Mr. Fernandez, you were the person who first requested  
8 this hearing. How would you like to proceed?

9           **MR. FERNANDEZ:** Well, I would suggest that we present  
10 the witnesses that we have subpoenaed and we have contacted,  
11 and then just proceed normally through that. There is a  
12 housekeeping matter, which I don't know --

13           **THE COURT:** Of course. Go ahead.

14           **MR. FERNANDEZ:** Okay. I was talking to my brothers  
15 for the Government regarding the U.S. Marshals that were  
16 subpoenaed by the Government. Neither the Government nor I  
17 has had a chance to interview them. So, I mean, obviously I'm  
18 very hesitant to call a witness which I haven't interviewed  
19 before.

20           I'm not sure how Your Honor would like to address that  
21 issue regarding the marshals, if Your Honor would like the  
22 Government -- everybody to interview them at the same time in  
23 chambers or -- I don't know.

24           **THE COURT:** Is this necessary? I don't think it's  
25 necessary.

1           **MS. CASTELLON:** Your Honor, for the Government, AUSA  
2 Olga Castellon. I understand that marshals that are here  
3 present, one of them was a former security officer from the  
4 court. The rest were the marshals that were assigned by the  
5 U.S. Marshal to be present on the day of January 20th, 2010,  
6 during the proceedings of the voir dire, which is basically  
7 the controversy and what was presented to the Court.

8           I understand that they could be called. They  
9 shouldn't be interviewed prior to the commencement of this  
10 hearing because I think it's a seeking truth hearing, so --

11           **THE COURT:** Well, my concern is -- and that's the  
12 reason I asked you how you wanted to proceed -- was the fact  
13 that some of these marshals have been subpoenaed. And let me  
14 ask who -- Mr. Maldonado.

15           **DEPUTY MARSHAL:** Yes, Your Honor.

16           **THE COURT:** The marshals who have been subpoenaed,  
17 who will be testifying, I would imagine would be outside the  
18 courtroom until they are called to testify. Do you have  
19 sufficient marshals in here, other than the ones that have  
20 been subpoenaed to testify?

21           **DEPUTY MARSHAL:** Yes, Your Honor.

22           **THE COURT:** Fine. That was my concern.

23           The other concern I have is, obviously, I would  
24 imagine that the witnesses would remain in the witness room, or  
25 rooms -- I don't know how many witnesses there are -- until

1 they are called.

2 **MR. FERNANDEZ:** Yes.

3 **THE COURT:** Okay.

4 **MR. FERNANDEZ:** Just for the record, the CSO, we will  
5 call.

6 **THE COURT:** Yes, I know. I know.

7 **MR. FERNANDEZ:** I was referring basically to --

8 **THE COURT:** Mr. Sierra?

9 **MR. FERNANDEZ:** -- the U.S. Marshals.

10 **THE COURT:** Right. No, but my concern was that the  
11 marshals had here sufficient personnel, as they usually do for  
12 security reasons, other than the marshals that will testify.  
13 And Mr. Maldonado has said that he does. All right.

14 **MS. CASTELLON:** I ask Brother Counsel if he has any  
15 of the witnesses present here in the courtroom, so they can  
16 step outside.

17 **THE COURT:** Anybody who is going to be a witness,  
18 please go to the witness room.

19 **MR. FERNANDEZ:** Yes, family members, they don't  
20 understand English, so I'm going to ask them in Spanish. If I  
21 may, Your Honor?

22 **THE COURT:** Of course. Or have the marshals tell  
23 them.

24 **MR. FERNANDEZ:** Oh, okay.

25 **THE COURT:** Those who will be witnesses.

1           **MR. FERNANDEZ:** Yes, Your Honor.

2           **DEPUTY MARSHAL:** They are all outside.

3           **MR. FERNANDEZ:** Oh, they're all outside? Thank you,  
4 Marshal.

5           Marshal, is Roberto Santiago outside? Okay, yes.

6           There is a witness that we are not going to call, who  
7 had been subpoenaed, we place him at the -- you know, he's  
8 outside, if the Government wishes to interview him or to call  
9 him, you know, he's outside. Otherwise, we would ask the Court  
10 to excuse him.

11           **THE COURT:** All right. Now, the next question I have  
12 is -- Mr. Sierra is a witness, right?

13           **MR. FERNANDEZ:** Yes.

14           Mr. Sierra, please, could you wait outside? I'm  
15 sorry.

16           **THE COURT:** All right. Now, there are five counsel  
17 for the Defense. I would imagine that -- I don't know who is  
18 going to be the main counsel who will do the questioning, and  
19 then what I don't -- what I wouldn't want is a repetition of  
20 the interrogatory by other counsel.

21           If you have any particular question that you think  
22 should be asked that wasn't, please go ahead, but please don't  
23 repeat matters that have already been covered. Is that okay?

24           **MR. FERNANDEZ:** Yes. They can -- you know, whoever  
25 is asking the question, we can walk up and give him or her a

1 piece of paper and we can speed up things that way.

2           **THE COURT:** Well, whoever needs reminders, that's  
3 fine.

4           Mr. Fernandez, your first witness.

5           **MR. FERNANDEZ:** Mr. Sierra.

6           **MR. RIVERA:** Your Honor, before we start, could we  
7 approach for a second?

8           **THE COURT:** Of course.

9           (Whereupon the following proceedings took place at  
10 sidebar:)

11           **MR. RIVERA:** Jorge Rivera on behalf of Luis Rodriguez  
12 Sostre. My question is the following: We're going to try not  
13 to repeat questions, okay, but the family members basically  
14 are going to have more or less the same information.

15           **THE COURT:** You may want to try to reach an agreement  
16 with the Government as to whether any particular witness would  
17 have testified in this manner.

18           **MR. FERNANDEZ:** They haven't had a chance to  
19 interview the witnesses, which they can if they want to. I  
20 have no objection, of course. So if they wish to do that, we  
21 could certainly all interview them together.

22           **THE COURT:** I think what counsel was trying to get at  
23 is, not to have five witnesses say the same thing.

24           **MR. FERNANDEZ:** Yes.

25           **MR. RIVERA:** But what the family members -- I may be

1 wrong, I don't know, but it would seem to me that there would  
2 be some repetition as to the events of that day.

3           **THE COURT:** It could be, depending on the particular  
4 family member.

5           **MS. MIZNER:** I think all of them will be testifying  
6 that they were not allowed --

7           **THE COURT:** Yeah, well, I'm sure that's the basic  
8 testimony of all of them.

9           **MR. RIVERA:** Yeah. Okay.

10           **THE COURT:** Unless they have any particular testimony  
11 as to who didn't allow them or why they weren't allowed,  
12 that's fine. If you have three family members saying that "I  
13 wasn't allowed into court," the Government may stipulate that  
14 everybody else is going to say the same thing except any  
15 particular -- particulars pertaining to that particular family  
16 member.

17           **MS. CASTELLON:** For the Government, Olga Castellon.  
18 I have asked Counsel Fernandez regarding the witnesses that  
19 are going to be called to the stand.

20           I understand that they have submitted only two  
21 affidavits for the attorneys --

22           **THE COURT:** Right.

23           **MS. CASTELLON:** -- for the record, which is a Miriam  
24 Ramos Grateroles and Counsel Mariangela Tirado.

25           And as to the witnesses that are relatives, are only

1 for Maribel -- I understand Maribel Rodriguez, who is Defendant  
2 Wilfredo Rosario's sister.

3 **MS. MIZNER:** Yes.

4 **MS. CASTELLON:** And there is another one that  
5 submitted, which is Counselor Rivera's client's sister.

6 **MR. RIVERA:** The wife. The wife.

7 **MS. CASTELLON:** The wife, that she also submitted  
8 affidavit.

9 I don't know the names of the other witnesses who will  
10 be taking the stand today. I understand counsel stated that  
11 there are three more that they haven't submit any affidavit,  
12 and I don't know the names.

13 **THE COURT:** Well, the affidavit is hearsay anyway.

14 **MS. CASTELLON:** I know, but I don't know the names.

15 **THE COURT:** Oh, I see.

16 **MS. CASTELLON:** Aside from the fact that I know the  
17 names of the ones that were submitting affidavits, I don't  
18 know who else is going to be testifying of the relatives.

19 **THE COURT:** Is Mr. Maysonet's wife going to testify?

20 **MR. HERNANDEZ:** Yes.

21 **MS. CASTELLON:** And who else?

22 **MS. MIZNER:** Zuheily Otero, who is a friend --

23 **MR. HERNANDEZ:** And the attorneys.

24 **THE COURT REPORTER:** Ms. Mizner, I'm sorry, can you  
25 repeat that?

1           **MS. MIZNER:** I'm sorry, Zuheily Otero, who is a  
2 friend of Mr. Rosario's, will be testifying.

3           **MR. HERNANDEZ:** And the attorneys.

4           **THE COURT:** How many -- well, let me make one thing  
5 clear about the attorneys. Their affidavit basically states  
6 that it's customary in this court -- "this court" being the  
7 district -- to close the proceedings for jury selection. I'm  
8 not interested in that.

9           I'm interested in what happened on January 20th, 2010.

10          **MR. FERNANDEZ:** We are too, Your Honor.

11          **THE COURT:** Okay. It really doesn't matter to me  
12 whether this has happened before, which I know it has happened  
13 before because I know about Judge Cerezo's case.

14          **MR. FERNANDEZ:** Yes.

15          **THE COURT:** In that case the attorney did make an  
16 objection and it was denied.

17               I don't think the record shows in this case that I  
18 closed the courtroom.

19          **MR. FERNANDEZ:** No, Your Honor.

20          **THE COURT:** You know, I don't know what the marshals  
21 did. I haven't spoken to the marshals. I certainly haven't  
22 spoken to Mr. Sierra, because, as you know, he no longer works  
23 here.

24          **MR. FERNANDEZ:** Yes, sir.

25          **THE COURT:** But I just wanted to let you know that

1 I'm not interested in the attorneys testifying as to the fact  
2 that this has happened before in this district.

3 As a matter of fact, as I said in my order -- I don't  
4 know if you recall the footnote.

5 **MR. FERNANDEZ:** Yes. I know.

6 **THE COURT:** It may be a 2255 on their part. So I  
7 don't know if you want to bring that up or not.

8 **MS. MIZNER:** Sir, it may also be relevant to a  
9 question of waiver or why an attorney did not object, if it  
10 was, in their view, a practice in their district, they may  
11 have viewed an objection --

12 **THE COURT:** Well, whether it's a practice in the  
13 district or not, it would be an unconstitutional practice, and  
14 I don't think that would -- you know.

15 **MR. FERNANDEZ:** Yeah, the only reason we would bring  
16 that up -- and I join my sister -- is precisely that, because  
17 we want --

18 **THE COURT:** What you're saying is that -- what you're  
19 saying is that they didn't do it because it would have been  
20 futile?

21 **MS. MIZNER:** Yes, sir. In their view.

22 **MR. RIVERA:** In their view.

23 **MS. MIZNER:** Based on their prior experience.

24 **MR. RIVERA:** Experience in the district.

25 **MS. KOURY:** And that would go to whether it was --

1           **THE COURT:** Come a little closer to the microphone.

2           **MS. KOURY:** Allison Koury.

3           Your Honor, that would go to the question of whether  
4 it was an intentional or knowing or tactical decision, so it  
5 has -- the history, a brief history --

6           **THE COURT:** I don't know, they open themselves up to  
7 some tough cross examination. But, I don't know, we'll see  
8 how it goes.

9           **MR. FERNANDEZ:** I mean, we're not going to waste the  
10 Court's time on that very long.

11           **THE COURT:** I know you're not going to waste the  
12 Court's time.

13           **MR. FERNANDEZ:** I know, Your Honor. But it's just  
14 going to be somewhat of one or two questions regarding that,  
15 and that's is it. And I can assure you, I will move on.

16           But I think it's important to give the Court a sense  
17 of --

18           **THE COURT:** Well, let's see how it goes.

19           **MS. CASTELLON:** And just for the record, this  
20 prosecutor has not interviewed any of the marshals either,  
21 because I understand that what we are trying here is to find  
22 the truth.

23           **THE COURT:** No one is saying that if you would  
24 interview the marshals, they would say anything but the truth.

25           **MS. CASTELLON:** I know. I know. But I know the

1 counselor has stated that he has not had the opportunity to  
2 interview the witnesses, and just for the record, we haven't  
3 either.

4 **MR. FERNANDEZ:** I trust my sister completely.

5 **THE COURT:** This isn't a civil case where you can  
6 have a deposition or something.

7 **MR. FERNANDEZ:** Oh, no, no, no, no, it's true. But,  
8 you know, it's my responsibility --

9 **THE COURT:** I understand.

10 **MR. FERNANDEZ:** -- to try.

11 **THE COURT:** I understand. All right. Okay. Let's  
12 go.

13 (Proceedings held in open court.)

14 **THE COURT:** Please take Mr. Sierra's oath.

15 **THE CLERK:** Raise your right hand, please.

16 CARLOS A. SIERRA-MEDINA,

17 after having first been duly sworn to state the truth, the  
18 whole truth and nothing but the truth, testified as follows:

19 **MR. FERNANDEZ:** May it please the Court.

20 **THE COURT:** You may proceed, Mr. Fernandez.

21 DIRECT EXAMINATION

22 **BY MR. FERNANDEZ:**

23 **Q.** Mr. Sierra, an honor to see you again.

24 Could you please state your name for the record.

25 **A.** My name is Carlos Antonio Sierra Medina.

CARLOS SIERRA - (DIRECT BY MR. FERNANDEZ)

1 Q. Could you please state your last employment.

2 A. Here, as a court security officer.

3 Q. What were your duties as a court security officer?

4 A. Well, I will provide security for the court and for the  
5 premises of the court and for the functionaries that work in  
6 the court.

7 Q. And how long were you a court security officer?

8 A. I was a court security officer for 19 years.

9 Q. And to what judges were you assigned throughout these 19  
10 years?

11 A. I was assigned to various judges, but mainly with Your  
12 Honor, Judge --

13 Q. Besosa?

14 A. Besosa.

15 MR. FERNANDEZ: Your Honor, if I may cut to the  
16 chase.

17 THE COURT: Yes, you better.

18 MR. FERNANDEZ: Yes, to be brief.

19 BY MR. FERNANDEZ:

20 Q. Sir, do you recall prior to 2010, what was the practice  
21 during voir dire regarding whether or not the public was  
22 allowed into the courtroom during voir dire?

23 A. Well, mainly because of the security reasons and space  
24 reasons, the jurors will, you know, will take the whole court,  
25 unless it was arranged by the attorneys and the judge for the

CARLOS SIERRA - (DIRECT BY MR. FERNANDEZ)

1 family to be inside.

2 Q. How many trials did you participate in in your 19 years?

3 A. I don't remember.

4 Q. Twenty?

5 A. Perhaps 20 or more. I don't remember.

6 Q. And in those 20 or more trials, do you recall whether the  
7 family members were actually allowed into the courtroom during  
8 voir dire, and I'm just talking voir dire, not the rest of the  
9 trial?

10 A. Well, in some of them, sure, when the attorneys and the  
11 judges would get together and allow. It was their thing. I  
12 was just receiving orders. But the tendency was that, because  
13 of the space and security, the family will not be allowed.

14 Q. That was the general rule?

15 A. I wouldn't call it a general rule, but it was --  
16 throughout the years, it was what was done.

17 Q. Did that change at any time?

18 A. As I told you, it changed when the judge and the  
19 attorneys --

20 Q. I'm sorry to interrupt you. When you mention the  
21 tendency, did the tendency that you experienced as a court  
22 security officer change at some point, and I mean after 2010?

23 A. I don't recall. I don't recall it changed.

24 Q. Do you recall -- when was your last trial here in court?

25 A. It was about -- it was the Martinez trial.

CARLOS SIERRA - (DIRECT BY MR. FERNANDEZ)

1 Q. You mean this case?

2 THE COURT: No, the Martinez, Hector Martinez trial.

3 THE WITNESS: Hector Martinez.

4 BY MR. FERNANDEZ:

5 Q. Oh, I'm sorry, the Hector Martinez trial. Okay.

6 What date was that, approximately?

7 A. I don't remember.

8 Q. Do you recall, was there any change in the tendency after  
9 the Braulio Agosto case came down?

10 A. I don't know because I didn't see the Braulio Agosto, but  
11 if you -- what you mean is that the tendency for the family --

12 Q. Yes.

13 A. -- stay outside, yes, it was a practice that the family  
14 would stay because of space and security.

15 Q. Now, getting to this case, did you participate as a court  
16 security officer in this case, 08-310?

17 A. Yes, sir.

18 Q. Were you present during the voir dire?

19 A. Excuse me?

20 Q. Were you present in court during voir dire?

21 A. Yes.

22 Q. Do you recall whether or not the family members were  
23 allowed inside?

24 A. I don't -- I can't -- I don't recall. I know the Judge  
25 met with the attorneys, but to tell you and to avow that I

CARLOS SIERRA - (DIRECT BY MR. FERNANDEZ)

1 remember if the family were in the courtroom, I can't tell  
2 you.

3 Q. Okay, fair enough.

4 MR. FERNANDEZ: Could I have a moment to confer?

5 THE COURT: Of course.

6 BY MR. FERNANDEZ:

7 Q. Sir, do you recall whether or not you behaved, in this  
8 case, or you took any actions contrary to the tendency that  
9 you referred to?

10 A. I don't remember. The only thing I remember in this case  
11 is that when the case started, there was one of the family  
12 that had small kids, and we -- the kids would interfere with  
13 the trial, and we asked the family to --

14 Q. No, but I'm just talking about voir dire, not the trial.

15 So the answer -- just to repeat the question, do you  
16 recall whether or not -- strike that.

17 You mentioned a tendency before, correct?

18 A. Uh-huh.

19 Q. Of leaving the families out. Is that correct?

20 A. Yes.

21 Q. Do you remember any actions that you took in this trial  
22 during voir dire that were contrary to that tendency?

23 A. I don't remember.

24 Q. Thank you, sir.

25 MR. FERNANDEZ: Nothing further, Your Honor.

CARLOS SIERRA - (DIRECT BY MR. FERNANDEZ)

1           **THE COURT:** Any other questions by counsel?

2           **MR. HERNANDEZ:** Not at this point, Your Honor.

3           **THE COURT:** Cross examination, please. Mr. Henwood.

4                                   CROSS EXAMINATION

5           **BY MR. HENWOOD:**

6           **Q.** Good morning, Mr. Sierra.

7           **A.** Good morning, sir.

8           **Q.** Sir, you mentioned that, on questions from counsel, that  
9 while you were working as a courtroom security officer, during  
10 the voir dire, there would be occasions when access from  
11 people coming in and out were sometimes limited based on  
12 security and space issues; is that correct?

13           **MR. HERNANDEZ:** Objection, Your Honor. He never  
14 mentioned people coming in and out in his answers.

15           **THE COURT:** Well, he didn't precisely say that. But  
16 I think that's what the situation is.

17           **BY MR. HENWOOD:**

18           **Q.** Would that be fair to say? The question is that when you  
19 were doing your job as a CSO, your job was to make sure that  
20 this room was secure and that there was access, or spacing  
21 issues did not become a problem for the Judge; is that  
22 correct?

23           **A.** Yeah, you could say that.

24           **THE COURT:** Well, I think the space issue is -- if  
25 we're talking about voir dire, the space issue is because of

CARLOS SIERRA - (CROSS BY MR. HENWOOD)

1 the number in the jury venire.

2 **MR. HENWOOD:** That's what I'm going to get to, Judge.

3 **THE COURT:** Okay.

4 **BY MR. HENWOOD:**

5 **Q.** And describe to us, in a multi-defendant case, based on  
6 your training and experience, how many people would generally  
7 be inside a courtroom like this one where the jury was  
8 selected, at the beginning of the voir dire process?

9 **A.** How many people -- how many jurors?

10 **Q.** How many potential jurors?

11 **A.** Sixty, seventy. It all depends on the magnitude of the  
12 trial.

13 **Q.** And the number of defendants that are going to be --

14 **A.** And the number of defendants.

15 **Q.** -- going to trial; is that a consideration?

16 **A.** Yes.

17 **Q.** So it's fair to say that during those times, at the  
18 beginning and during the voir dire process, that the entire  
19 courtroom was full of potential jurors, correct?

20 **A.** It might be. I can't remember, but I know there were a  
21 lot of jurors because of the number of defendants and the...

22 **Q.** And you also mentioned that you've done maybe 20 trials  
23 throughout your 19 years here as a CSO; is that correct?

24 **A.** I didn't say 20 trials; I don't remember, but it's...

25 **Q.** But you've done quite a few, correct?

CARLOS SIERRA - (CROSS BY MR. HENWOOD)

1 A. Yeah.

2 Q. I want to turn your attention to one in particular, not  
3 this case, but a case that Judge Besosa --

4 THE COURT: Excuse me, Mr. Henwood.

5 Do you recall, Mr. Sierra, during the voir dire of  
6 this case -- I mean, it wasn't in this courtroom, it was in  
7 courtroom 4, which is similar to this courtroom and I think  
8 it's got about the same number of benches.

9 Do you recall if the jury venire, the jurors that were  
10 called, took up the entire courtroom other than the bench where  
11 the Defendants were sitting and the bench where the marshals  
12 were sitting; do you recall?

13 THE WITNESS: There is -- I don't recall, but it  
14 might have been that they were put, because there were so  
15 many, they were put in another courtroom. It usually happens  
16 in this type of trial.

17 MR. HERNANDEZ: Your Honor, I do have an objection to  
18 the answer. He said that he did not recall, and then he said  
19 that it might have been.

20 THE COURT: Well, that's what he recalls.

21 MR. HERNANDEZ: For the record.

22 THE COURT: Go ahead, Mr. Henwood.

23 BY MR. HENWOOD:

24 Q. Mr. Sierra, I want to turn your attention to a case  
25 that --

CARLOS SIERRA - (CROSS BY MR. HENWOOD)

1           **THE COURT:** Excuse me. Excuse me. Would counsel  
2 approach.

3           (Whereupon the following proceedings took place at  
4 sidebar:)

5           **THE COURT:** The courtroom deputy has checked the  
6 records and there were 75 jurors called for the jury venire.

7           Would you have any problem with me saying that?

8           **MR. FERNANDEZ:** No.

9           **MS. CASTELLON:** I think it's in the transcript at  
10 some point, we have a discussion at the bench regarding the  
11 amount of jurors and I think the number 75 came up.

12          **THE COURT:** Okay.

13          **MS. MIZNER:** Judge, does the record show that 75  
14 showed up or is that --

15          **THE COURT:** No, that's 75 showed up.

16          **MS. MIZNER:** Okay. Thank you.

17          **MR. FERNANDEZ:** No problem.

18          **THE COURT:** I don't know how many were called.

19          (Proceedings held in open court.)

20          **THE COURT:** The record demonstrates that 75 jurors  
21 were actually present on the date the jury selection began.

22          Go ahead, Mr. Henwood. Sorry for the interruption.

23 **BY MR. HENWOOD:**

24 **Q.** Now, sir, I want to turn your attention to another case --  
25 not the one that brings you here today -- that you worked with

CARLOS SIERRA - (CROSS BY MR. HENWOOD)

1 Judge Besosa, it was the case of Felix Sanabria Morales. It  
2 was a case where I was one of the prosecutors, with Mr. Coker,  
3 and the defense attorney was Fernando Carlo. The case took  
4 place in approximately 2009.

5 Do you recall that case?

6 **MR. HERNANDEZ:** I have an objection on relevance.

7 **THE COURT:** Well, we will see where this goes. I  
8 don't know where Mr. Henwood is going.

9 Do you recall that case, Mr. Sierra?

10 **THE WITNESS:** I recall the case, but it isn't a  
11 hundred percent in my memory.

12 **THE COURT:** Well, let me ask you this, do you  
13 remember the case of El Chapo?

14 **THE WITNESS:** El Chapo, yes.

15 **THE COURT:** That's the one we are talking about.

16 **THE WITNESS:** Okay.

17 **THE COURT:** Okay. Go ahead.

18 **BY MR. HENWOOD:**

19 **Q.** And in that case, sir, during the voir dire and the jury  
20 selection, do you recall that -- and it was taking place in  
21 what is now Judge Garcia's courtroom, it used to be Judge  
22 Laffitte's.

23 **THE COURT:** Courtroom number 6.

24 **BY MR. HENWOOD:**

25 **Q.** Courtroom number 6, and there were a lot of people that

CARLOS SIERRA - (CROSS BY MR. HENWOOD)

1 came as potential jurors. And in that case, do you recall  
2 that defense counsel brought the record -- or brought up for  
3 the record the fact that the defendant's family members didn't  
4 have a place to sit in the courtroom, and Judge Besosa ordered  
5 you to put some chairs, three additional chairs in the  
6 courtroom for those family members?

7 **MS. MIZNER:** Objection.

8 **Q.** Do you recall that?

9 **MR. HERNANDEZ:** Objection, relevance.

10 **THE COURT:** Overruled. Overruled. You mentioned at  
11 sidebar that you wanted some of this testimony as to the  
12 proceedings in this district.

13 **MR. HERNANDEZ:** As to this case.

14 **THE COURT:** So I'm going to allow the question.

15 **THE WITNESS:** Yes, now that I remember, we took  
16 chairs from other courtrooms and put them.

17 **BY MR. HENWOOD:**

18 **Q.** So in that case, when it was brought to the Court's  
19 attention and your attention by defense counsel, arrangements  
20 were made for the family members, correct?

21 **A.** Okay. As I told the attorney, when the attorneys and the  
22 judge get together and they arrange that the family could be  
23 in the trial, yes.

24 **Q.** And during the jury selection, Mr. Sierra, when you worked  
25 with Judge Besosa during jury selections, during the voir dire

CARLOS SIERRA - (CROSS BY MR. HENWOOD)

1 in this case, where were you situated or located? Were you  
2 inside the courtroom or were you outside the courtroom?

3 **A.** I'm inside the courtroom, and I run with the microphone  
4 and the questions, and more--my attention is more to the front  
5 than in the back.

6 In a criminal case, there are deputies that could tell  
7 you, because they are more -- they are more in the attention  
8 of the door.

9 **Q.** And do you recall standing post or standing guard,  
10 throughout the jury selection process, outside of the  
11 courtroom during this particular case?

12 **A.** I don't understand the question.

13 **Q.** Did you stand outside the courtroom -- in the courtroom  
14 where you actually selected the trial, I think it was a couple  
15 more down, during the jury selection process were you outside  
16 the courtroom at any point?

17 **A.** No.

18 **Q.** No. And you weren't standing out by the door at any  
19 point?

20 **A.** No, I would be near the door because of the jurors are in  
21 different places in the courtroom.

22 **Q.** But the main part of your work was up here dealing with  
23 the jurors, correct?

24 **A.** (Nodding in the affirmative.)

25 **MR. HENWOOD:** Nothing further, Your Honor.

CARLOS SIERRA - (CROSS BY MR. HENWOOD)

1           **THE COURT:** Any redirect?

2           **MR. FERNANDEZ:** Yes.

3           **THE COURT:** Mr. Fernandez.

4           **MR. FERNANDEZ:** Very briefly.

5           **THE COURT:** Always very briefly.

6           **MR. FERNANDEZ:** Yeah, I know, Your Honor. I think I  
7 have been so far.

8           **THE COURT:** Go ahead.

9                               REDIRECT EXAMINATION

10          **BY MR. FERNANDEZ:**

11          **Q.** Sir, Your Honor mentioned that there were 75 potential  
12 jurors on this case.

13               Now, in your experience, would 75 potential jurors take up  
14 the whole courtroom, all the benches and all the jury seats,  
15 except, of course, where the defendants and the marshals were  
16 sitting?

17          **A.** Yes, I think so. I think that 75 will take the whole...

18          **Q.** Do you recall in this case whether any of the attorneys  
19 spoke to the Judge or spoke to you regarding the family  
20 members, that provisions be made so they could come in,  
21 despite the fact that the courtroom was full?

22          **A.** I know they met with the Judge, but I don't -- you know, I  
23 wasn't there, I can't recall.

24          **Q.** When a juror was dismissed, did you walk the juror out?

25          **A.** Excuse me?

CARLOS SIERRA - (REDIRECT BY MR. SIERRA)

1 Q. When a juror, a potential juror was dismissed, did you  
2 walk him out?

3 A. Open the door and the juror could go.

4 Q. Was the door locked or open?

5 A. Excuse me?

6 Q. The door, was it locked or open -- or unlocked, I'm sorry.

7 A. Unlocked.

8 Q. Unlocked. Okay. Who had control of the door? I mean,  
9 who would let people come in and out of the courtroom during  
10 voir dire?

11 A. Well, various persons; the deputies, they are guarding the  
12 defendants, and myself.

13 Q. Do you recall if people could just walk in during --

14 A. No, I don't -- I can't recall that.

15 MR. FERNANDEZ: Thank you, Your Honor.

16 Nothing further.

17 THE COURT: Thank you, Mr. Sierra. You're excused.

18 THE WITNESS: Let me say that it was an honor to  
19 serve in this court, Judge.

20 THE COURT: Thank you. You're excused.

21 Next witness, please.

22 MS. MIZNER: Your Honor, I ask that Maribel

23 Rodriguez --

24 THE COURT: Maribel Rodriguez.

25 MS. CASTELLON: Your Honor, before Sierra is about to

CARLOS SIERRA - (REDIRECT BY MR. SIERRA)

1 get excused, can he -- can he be around just in case the  
2 Government wants to re-call him?

3 **THE COURT:** Of course. Please tell Mr. Sierra not to  
4 leave.

5 **THE CLERK:** Raise your right hand, please.

6 MARIBEL RODRIGUEZ,  
7 after having first been duly sworn to state the truth, the  
8 whole truth and nothing but the truth, testified with the  
9 interpreter as follows.

10 **THE WITNESS:** Do I have to answer "yes", or -- I  
11 swear.

12 **THE COURT:** That's fine.

13 **MR. FERNANDEZ:** Your Honor --

14 **THE COURT:** Yes.

15 **MR. FERNANDEZ:** -- we have the pleasure of Attorney  
16 Candice Pimentel. She's in the mentoring program. She asked  
17 me to sit at Defense table, and if Your Honor so permits, we  
18 will be happy to have her.

19 **THE COURT:** Candice Pimentel?

20 **MS. PIMENTEL:** Yes. Thank you.

21 **THE COURT:** Of course. I've heard a lot of good  
22 things about Ms. Pimentel by one of her professors.

23 **MS. PIMENTEL:** Oh, really?

24 **THE COURT:** Not about you, Mr. Fernandez.

25 **MR. FERNANDEZ:** Well...

MARIBEL RODRIGUEZ - (DIRECT BY MS. MIZNER)

1           **MS. PIMENTEL:** Maybe I shouldn't be sitting next to  
2 him, right?

3           **MR. FERNANDEZ:** It's all lies, Your Honor.

4           **THE COURT:** All right. Go ahead, Ms. Mizner. Thank  
5 you.

6                                   DIRECT EXAMINATION

7 **BY MS. MIZNER:**

8 **Q.** Good morning. Could you please state your name for the  
9 record.

10 **A.** Maribel Rodriguez.

11 **Q.** And do you know any of the Defendants in this case?

12 **A.** Yes.

13 **Q.** Whom do you know?

14 **A.** My brother.

15 **Q.** And your brother's name is?

16 **A.** Wilfredo Rosario Camacho.

17 **Q.** And did you attend your brother's trial in this  
18 courthouse?

19 **A.** Yes.

20 **Q.** Did you come to the courthouse the day that the jury was  
21 selected?

22 **A.** Yes.

23 **Q.** And do you remember the date?

24 **A.** Yes.

25 **Q.** And it was?

MARIBEL RODRIGUEZ - (DIRECT BY MS. MIZNER)

1 A. The 20 of January 2010.

2 Q. And what time did you arrive at the courthouse?

3 A. About 8:30.

4 Q. Where did you go when you arrived?

5 A. When we came inside here?

6 Q. When you arrived at the courthouse.

7 A. We came to the hallway.

8 Q. And what happened while you were in the hallway?

9 A. We were waiting, and then we saw the process when the jury  
10 was getting inside of the courtroom.

11 Q. And where were you at that time?

12 A. I was in the hallway.

13 Q. Continue describing what happened.

14 A. Sitting right in front of the door.

15 Q. Which courtroom? It was not this courtroom, was it?

16 A. No, it was the last one, I believe it's number 6, but I'm  
17 not sure.

18 Q. So you were sitting outside and the potential jurors  
19 came -- went into the courtroom?

20 A. Yes.

21 Q. And what happened after that?

22 A. I tried to get into, but they were -- it could be security  
23 officers, marshals, standing in the door, where they open the  
24 door, I'm not sure if they were coming outside or if they open  
25 the door because I was there, but they asked me if I was a

MARIBEL RODRIGUEZ - (DIRECT BY MS. MIZNER)

1 jury, and I said, "No, I'm a family member of," and they  
2 didn't even let me finish.

3 He said, "Okay, well, family members are not allowed until  
4 we're finished."

5 **THE COURT:** Let me ask you this, Ms. Rodriguez.

6 **THE WITNESS:** Yes.

7 **THE COURT:** Was this when the jurors were being  
8 brought into the courtroom or after they had been seated?

9 **THE WITNESS:** It was a lot of, like, people coming  
10 inside, outside, so I couldn't remember exactly, but most of  
11 the people were, like, inside.

12 **BY MS. MIZNER:**

13 **Q.** Was the door open or shut when you came up to the door?

14 **THE COURT:** You mean locked or unlocked?

15 **MS. MIZNER:** I guess first whether it was just open  
16 or shut when she approached.

17 **THE WITNESS:** Yeah, it was shut. I was about to  
18 open, but I'm assuming they -- I mean, he saw me and he opened  
19 the door.

20 **BY MS. MIZNER:**

21 **Q.** You never actually pulled the door?

22 **A.** Maybe. I'm not sure, but...

23 **Q.** In any event, and you don't -- do you remember what the  
24 person who was in here, who was at the door, was wearing? Was  
25 it a uniform or a suit?

MARIBEL RODRIGUEZ - (DIRECT BY MS. MIZNER)

1 A. It was like a suit.

2 Q. Did he have a name tag or any identification on his suit?

3 A. At that time, I didn't actually -- everything happened so  
4 fast.

5 Q. So you -- when you approached the door and either started  
6 to open it or it was opened and someone was coming out, that  
7 person told you what?

8 A. If I was from the jury, and I immediately respond, "No,  
9 I'm a sister of," and I don't even think he let me finish who  
10 I was, sister of who, but he informed me immediately that, you  
11 know, I was not allowed until they finished.

12 Q. So after you were told that you could not come into the  
13 courtroom, where did you go?

14 A. I went back to the bench. I sit down right in front of  
15 the courtroom.

16 Q. And how long did you stay there?

17 A. We were there all the day. It was a very long day.

18 Q. And did you ever try to go back into the courtroom that  
19 day?

20 A. No, because he informed me that I wasn't allowed, but...

21 Q. Did anyone ever come out and tell you that you could come  
22 into the courtroom?

23 A. No.

24 Q. Did you see anything at any time during that day about the  
25 courtroom door?

MARIBEL RODRIGUEZ - (DIRECT BY MS. MIZNER)

1 A. Yes.

2 Q. And what did you see?

3 A. Sometime -- in a certain time, actually, someone was  
4 blocking the glass of the doors with paper, I guess they taped  
5 paper on it so we couldn't see inside. And I'm assuming --  
6 well, I can't say.

7 Q. Were people -- were there other people outside with you?

8 A. Yes.

9 Q. And did any of them approach the door and look into the  
10 window?

11 A. Yes. We were like -- since we couldn't go inside, at  
12 least we -- we were like passing through and trying to at  
13 least see what was going on inside or to look at them.

14 MS. MIZNER: May I have one moment, Your Honor?

15 THE COURT: Yes, of course.

16 (Pause.)

17 BY MS. MIZNER:

18 Q. When you say "we were outside," who were you outside with?

19 A. Family members and friends and other persons from the  
20 other codefendants.

21 Q. Did you see people coming out of the courtroom while you  
22 were sitting outside?

23 A. Coming out of the courtroom?

24 Q. Coming outside of the courtroom at any time during the day  
25 while you were --

MARIBEL RODRIGUEZ - (DIRECT BY MS. MIZNER)

1 A. Yes, yes.

2 Q. But you were not allowed into the courtroom at any time  
3 during that day?

4 A. Yes, I didn't saw any -- at least of the people that I  
5 knew at that time, weren't going inside, that I noticed.

6 Q. You were not allowed inside?

7 A. I was not at any time.

8 MS. MIZNER: Thank you.

9 THE COURT: Anybody else, Defense?

10 Cross examination. Ms. Castellon.

11 CROSS EXAMINATION

12 BY MS. CASTELLON:

13 Q. Mrs. Rodriguez, who was representing your brother,  
14 Wilfredo Rosario Camacho?

15 A. Attorney Dolz, Francisco.

16 Q. Did you see him on that day?

17 A. Yes.

18 Q. You mentioned that you came to the court on that day at  
19 8:30, approximately, correct?

20 A. Uh-huh, yes.

21 Q. Did you talk to Mr. Dolz prior to the commencement of the  
22 jury selection?

23 A. Don't remember.

24 Q. Did you ask him what was going to happen regarding the  
25 court proceedings on that day?

MARIBEL RODRIGUEZ - (CROSS BY MS. CASTELLON)

1 A. Before or during?

2 THE COURT: That day.

3 THE WITNESS: On that day, okay. Since I was not  
4 allowed --

5 BY MS. CASTELLON:

6 Q. No, the question is: Did you talk to Mr. Dolz prior to  
7 the commencement of the proceedings on that day?

8 A. Don't remember.

9 Q. You don't know if you talked to Mr. Dolz?

10 MR. FERNANDEZ: Objection, Your Honor. That's not  
11 what she answered. We have to -- I mean, let's be specific.

12 THE COURT: She said she can't remember if she talked  
13 with Mr. Dolz before the proceedings.

14 MR. FERNANDEZ: Before the proceedings.

15 THE COURT: Yeah.

16 THE WITNESS: Yes, before.

17 BY MS. CASTELLON:

18 Q. Ma'am, aside from you, who were the other relatives that  
19 came with you on that day?

20 THE COURT: You mean relatives of Mr. --

21 MS. CASTELLON: Wilfredo Rosario Camacho.

22 THE COURT: -- Rosario? Okay.

23 THE WITNESS: My mother.

24 BY MS. CASTELLON:

25 Q. What's her name?

MARIBEL RODRIGUEZ - (CROSS BY MS. CASTELLON)

1 A. Carmen Camacho.

2 Q. Who else?

3 A. And a friend of our family.

4 Q. A friend of the family?

5 A. Yes.

6 Q. Not a relative; a friend?

7 A. A friend.

8 Q. What's her name or his name?

9 A. Her name is Zuheily Otero.

10 Q. Anybody else?

11 THE COURT: Is this the wife of Mr. Maysonet, Zuheily  
12 Otero?

13 THE WITNESS: My -- oh, no, no, no.

14 BY MS. CASTELLON:

15 Q. So she's a friend of your family?

16 A. Yes.

17 Q. So on that day, do you recall seeing your mother, Carmen  
18 Camacho, or Zuheily, talking to Mr. Dolz?

19 A. Don't remember.

20 Q. Do you recall when did the proceedings started in this  
21 courtroom, the jury selection, the time?

22 A. Where?

23 Q. When, on that day.

24 A. I'm confused, you said when?

25 Q. When, what time, the time.

MARIBEL RODRIGUEZ - (CROSS BY MS. CASTELLON)

1 A. Oh, in the morning.

2 Q. Around -- do you have the time, the hour?

3 A. I remember that beginning of those days, I believe --

4 Q. No, I'm asking you regarding January 20.

5 A. In the morning.

6 Q. Any specific time?

7 A. Before noon, for sure, and after 9.

8 Q. Do you -- and you mentioned that you were not allowed to  
9 go inside the courtroom that the voir dire was being  
10 conducted, correct?

11 A. Yes.

12 Q. How many times did you ask that person to go in?

13 A. Which person?

14 Q. The person that you say that didn't allow you to go into  
15 the courtroom.

16 A. Once.

17 Q. Can you tell this Court who was that person?

18 A. By name? No.

19 Q. Can you describe that person physically?

20 A. He was in a suit and I'm assuming -- well, normal height;  
21 no.

22 Q. Let me ask you, Mrs. Maribel Rodriguez, how many days did  
23 you come to this courtroom to be present in the proceedings  
24 against your brother?

25 A. A lot.

MARIBEL RODRIGUEZ - (CROSS BY MS. CASTELLON)

1 Q. Many times, correct?

2 A. Yes.

3 Q. More than 20?

4 A. Could be.

5 Q. You are aware that this trial lasted three months,  
6 correct?

7 A. Yes.

8 Q. And during those three months, how many times did you go  
9 in?

10 A. Many times.

11 Q. And basically, you saw the same persons, the same security  
12 officers and the marshals through all the trial, correct?

13 MR. FERNANDEZ: Objection, assuming facts not in  
14 evidence, Your Honor, whether the same marshals --

15 THE COURT: Well, that may be true, but that's a  
16 question -- the question should be posed in a different way.

17 This person whom you say did not allow you into the  
18 courtroom, Ms. Rodriguez, did you see that person during the  
19 days that you were present during the trial?

20 THE WITNESS: To be honest --

21 THE COURT: I hope so.

22 THE WITNESS: -- in those first days that we came, I  
23 mean, everything was new, at least for me. So we were like  
24 very nervous of everything that was happening. But I know for  
25 sure it was an employee, because that person was in a suit and

MARIBEL RODRIGUEZ - (CROSS BY MS. CASTELLON)

1 was questioning who was going in.

2 So I don't think any -- I mean, I don't think, at  
3 least, that I can do that. I have to be an employee to be able  
4 to do something like that.

5 Q. Did you see that person --

6 THE COURT: You couldn't tell us if this person -- if  
7 you saw him during those days that you were during the trial.

8 THE WITNESS: They changed so many times at the  
9 beginning that...

10 THE COURT: Thank you.

11 BY MS. CASTELLON:

12 Q. So can you describe that person to the Court?

13 A. I already did.

14 MR. FERNANDEZ: Asked and answered.

15 THE COURT: Asked and answered. She said someone in  
16 a suit, in a regular tie.

17 BY MS. CASTELLON:

18 Q. Was it a marshal?

19 A. He was in a suit standing at the door.

20 Q. Did you tell, at any point during that day, Mr. Dolz what  
21 was going on, the fact that you were not allowed to go inside  
22 the courtroom?

23 A. If I talked to him?

24 Q. Did you tell Mr. Dolz, the attorney for your brother,  
25 Wilfredo Rosario, what was going on?

MARIBEL RODRIGUEZ - (CROSS BY MS. CASTELLON)

1 A. Yes.

2 Q. When?

3 A. As soon as I saw him.

4 THE COURT: Excuse me. What was going on in the  
5 sense that they weren't being allowed into the courtroom?

6 MS. CASTELLON: They were not being allowed inside  
7 the courtroom.

8 THE COURT: That's the question.

9 THE WITNESS: Yes, I talked to him as soon as I saw  
10 him and get his attention.

11 BY MS. CASTELLON:

12 Q. When was that?

13 A. That day.

14 Q. What time?

15 A. I know it was not too late in the afternoon, but -- I  
16 don't use a watch and I don't have my cell phone, so I  
17 couldn't tell the time.

18 Q. No, I'm asking you, do you recall -- you mentioned that  
19 the proceedings started in the morning, so there was a lunch  
20 break, correct?

21 A. I will think so.

22 Q. Did you at any point during that lunch break talk to  
23 Mr. Dolz?

24 A. I talked to him.

25 Q. Did you tell him what was going on outside the courtroom?

MARIBEL RODRIGUEZ - (CROSS BY MS. CASTELLON)

1 A. That they didn't let me go in?

2 Q. Yes.

3 A. That's correct. Yes, I informed him and I questioned him.

4 Q. Did you -- what did he say?

5 A. He said that -- exactly what he said, he said, "Don't  
6 worry, just wait in here, outside. It's the procedure, family  
7 members are not allowed until we finish with the selection of  
8 the jury."

9 Q. And when did that conversation happen?

10 A. That day.

11 Q. Where?

12 A. Out in the hallway.

13 Q. Outside the courtroom? Outside?

14 A. Yes, because I wasn't allowed to be inside.

15 Q. Who else was there in that conversation?

16 A. Me.

17 Q. You're shrugging; what?

18 A. I said me.

19 Q. Only you?

20 A. Yes.

21 Q. When that was discussed?

22 A. Yes.

23 Q. And you mentioned that something was covering the glass  
24 windows that are located in the door of the courtroom,  
25 correct?

MARIBEL RODRIGUEZ - (CROSS BY MS. CASTELLON)

1 A. Can you repeat that again?

2 Q. You mentioned in your testimony that something was  
3 covering the glass windows for the doors.

4 A. Yes.

5 Q. And that happened through all the day?

6 A. Don't remember. I remember looking at those papers in the  
7 window because we couldn't see inside, but I cannot tell you  
8 at what time they took those papers off the windows.

9 Q. Have you discussed this matter after your brother was  
10 convicted?

11 MR. HERNANDEZ: Objection.

12 THE COURT: What was the question, again?

13 MS. CASTELLON: Has she discussed this matter with  
14 counselors -- and I'm asking and rephrasing the question --  
15 with counselors after your brother was convicted.

16 THE COURT: After the case was over?

17 MS. CASTELLON: After the case was done and her  
18 brother was convicted.

19 THE WITNESS: With what lawyer?

20 BY MS. CASTELLON:

21 Q. With the attorneys that represents your brother.

22 A. He only have one.

23 Q. Which is?

24 A. Dolz.

25 THE COURT: Mr. Dolz. Now, the question is whether

MARIBEL RODRIGUEZ - (CROSS BY MS. CASTELLON)

1 you discussed this issue with Mr. Dolz after the trial was  
2 over.

3 Since the day the trial was over until today, have you  
4 discussed this matter about not being allowed in, with  
5 Mr. Dolz?

6 **THE WITNESS:** No.

7 **BY MS. CASTELLON:**

8 **Q.** And you submitted an affidavit, correct?

9 **A.** Yes.

10 **Q.** Who wrote that affidavit, Mrs. Rodriguez?

11 **A.** I provided with the information to my brother's attorney,  
12 and they wrote it for me.

13 **THE COURT:** Mr. Dolz?

14 **THE WITNESS:** Based on my information, and they wrote  
15 the affidavit for me and they send it to me to make sure that  
16 that was exactly what happened.

17 And I went on base and signed the affidavit with a  
18 notary.

19 **BY MS. CASTELLON:**

20 **Q.** A notary?

21 **A.** Yes.

22 **Q.** So what you subscribed in front of a notary --

23 **THE COURT:** Excuse me. When you said that you  
24 provided it to the attorney, was it Mr. Dolz or another  
25 attorney?

MARIBEL RODRIGUEZ - (CROSS BY MS. CASTELLON)

1           **THE WITNESS:** No, Ms. Judith Mizner.

2           **THE COURT:** Ms. Mizner?

3           **THE WITNESS:** Yes.

4           **THE COURT:** Okay.

5 **BY MS. CASTELLON:**

6 **Q.** And she sent you the document for you to subscribe it  
7 before the notary, correct?

8 **A.** Yes, because they have the office symbol and they know how  
9 to put it together.

10           **MS. CASTELLON:** No further questions, Your Honor.

11           **THE COURT:** Any redirect, Ms. Mizner?

12           **MS. MIZNER:** No further questions.

13           **THE COURT:** Thank you, Ms. Rodriguez. You're  
14 excused.

15           **MS. MIZNER:** Your Honor, may she stay in the  
16 courtroom now?

17           **THE COURT:** Yes, of course.

18           Next witness.

19           **MS. MIZNER:** Zuheily Otero.

20           **THE CLERK:** Raise your right hand, please.

21                       ZUHEILY OTERO GONZALEZ,

22 after having first been duly sworn to state the truth, the  
23 whole truth and nothing but the truth, testified with the  
24 interpreter as follows.

25           **THE COURT:** Ms. Otero, please speak into the

ZUHEILY OTERO - (DIRECT BY MS. MIZNER)

1 microphone.

2 **THE WITNESS:** Okay.

3 DIRECT EXAMINATION

4 **BY MS. MIZNER:**

5 **Q.** Could you please state your name for the record.

6 **A.** Zuheily Otero Gonzalez.

7 **Q.** Do you know any of the Defendants in this case?

8 **A.** Yes.

9 **Q.** Who do you know?

10 **A.** Wilfredo Rosario Camacho.

11 **Q.** How do you know him?

12 **A.** I'm his friend.

13 **Q.** How long have you known him?

14 **A.** More than ten years.

15 **Q.** Did you attend his trial in this case?

16 **A.** Correct.

17 **Q.** Did you come to the courthouse the day the jury was  
18 selected?

19 **A.** Yes.

20 **Q.** Do you remember the date?

21 **A.** Yes.

22 **Q.** What was that date?

23 **A.** January 20, 2010.

24 **Q.** What time did you arrive at the courthouse?

25 **A.** At approximately 8:30.

ZUHEILY OTERO - (DIRECT BY MS. MIZNER)

1 Q. Did you come with anyone else?

2 A. Yes, with his family members.

3 Q. Where did you go when you arrived in the courthouse?

4 A. To courtroom number 4.

5 Q. And where is courtroom number 4?

6 A. At the end of the hallway.

7 Q. And when you arrived outside that courtroom, what did you  
8 do?

9 A. I headed over to the courtroom marshal to ask him if I  
10 could come into the courtroom for the jury selection, to which  
11 he told me that I could not go in.

12 Q. And was this person standing inside the courtroom or  
13 outside the courtroom when you went over?

14 A. Outside the courtroom.

15 Q. And were you by yourself when you went over to the  
16 courtroom?

17 A. Yes.

18 Q. Where did you go after you were told you could not go into  
19 the courtroom?

20 A. I proceeded to sit down on the benches that are located  
21 outside the courtroom.

22 Q. About what time was that, when you went over to try to get  
23 into the courtroom?

24 A. Well, the Defendants had already arrived, because I peeked  
25 over into the door, and it was more or less around 10:00.

ZUHEILY OTERO - (DIRECT BY MS. MIZNER)

1 Q. And while you were sitting outside, did you see people  
2 going in and out -- other people going in and out of the  
3 courtroom?

4 A. The members of the jury.

5 Q. And how long did you sit outside the courtroom?

6 A. All day.

7 Q. Did you take a lunch break?

8 A. Yes.

9 Q. And did you see anything about the door when you were  
10 sitting outside?

11 A. Yes, I did.

12 Q. What did you see?

13 A. That Mr. Sierra, the courtroom security officer, put some  
14 papers up against the windows of the door.

15 Q. And how did you know his name was Mr. Sierra?

16 A. Because I had come on previous occasions to the status  
17 conferences and he had identified himself.

18 Q. Was Mr. Sierra the person who told you you could not come  
19 into the courtroom?

20 A. Correct.

21 Q. And did anyone ever come out of the courtroom and tell you  
22 that you could go into the courtroom at any time during that  
23 day?

24 A. No.

25 MS. MIZNER: May I have one moment, Your Honor?

ZUHEILY OTERO - (DIRECT BY MS. MIZNER)

1           **THE COURT:** Any further questions from defense  
2 counsel? Cross examination.

3           **MR. HENWOOD:** I think she's conferring.

4           **THE COURT:** Oh, I'm sorry.

5           (Pause.)

6           **MS. MIZNER:** Thank you, Your Honor. No further  
7 questions.

8           **THE COURT:** Cross examination, Mr. Henwood.  
9 Oh, I'm sorry, did you have any questions, sir?

10          **MR. RIVERA:** I just jumped ahead.

11                               CROSS EXAMINATION

12 **BY MR. HENWOOD:**

13 **Q.** Good morning, ma'am.

14 **A.** Good morning.

15 **Q.** Ms. Otero, you said that you're a friend of Mr. Wilfredo  
16 Rosario Camacho?

17 **A.** Correct.

18 **Q.** Could you describe the nature of your relationship with  
19 him?

20 **A.** Well, we knew each other from school.

21 **Q.** Do you have a sentimental relationship with him?

22 **A.** Right now I do.

23 **Q.** And when did that begin?

24 **A.** Approximately almost a year ago.

25 **Q.** Now, you said you came with some family members of

ZUHEILY OTERO - (CROSS BY MR. HENWOOD)

1 Mr. Rosario Camacho, correct?

2 A. Correct.

3 Q. Who were those family members?

4 A. His mother and his sister.

5 Q. Do you know their names?

6 A. Yes.

7 Q. What are their names?

8 A. Maribel Rosario and Carmen Camacho.

9 Q. Ma'am, did you discuss your testimony or what you would be  
10 testifying about here in court today with anyone prior to  
11 coming?

12 A. Yes.

13 Q. Who did you discuss your testimony with?

14 A. With Judith Mizner.

15 Q. And what did you talk about when you spoke with  
16 Ms. Mizner?

17 A. She interviewed me to verify whether I was present, to  
18 which I told her that I was.

19 Q. Did you do any -- did you write anything, any versions of  
20 what took place on that day?

21 A. No.

22 Q. Do you know if she was taking notes when she interviewed  
23 you?

24 A. Yes.

25 Q. Did you look at those notes?

ZUHEILY OTERO - (CROSS BY MR. HENWOOD)

1 A. No.

2 Q. Now, you stated that Mr. Sierra, you knew who he was  
3 because you had attended a few of the status conferences or  
4 one of the status conferences; is that correct?

5 A. Yes, the conferences on the case.

6 Q. And it was Sierra that told you you couldn't come in;  
7 you're sure of that?

8 A. Yes.

9 Q. Where did that take place?

10 A. In front of courtroom number 4.

11 Q. So it was outside of the courtroom?

12 A. Correct.

13 Q. In the hallway?

14 A. Right in front.

15 Q. And you said it was Sierra that put the paper on the  
16 glass; is that correct?

17 A. Correct.

18 Q. Was the paper on the glass the entire day?

19 A. No.

20 Q. When did the paper go up?

21 A. When we came back from lunch.

22 Q. Who did you eat lunch with that day?

23 MR. FERNANDEZ: Objection, relevance, Your Honor.

24 THE COURT: Well, we'll see where this goes.

25 THE WITNESS: With the family members.

ZUHEILY OTERO - (CROSS BY MR. HENWOOD)

1 **BY MR. HENWOOD:**

2 **Q.** Do you know who represented Wilfredo at the trial, who was  
3 his trial counsel?

4 **A.** Yes.

5 **Q.** Who?

6 **A.** Francisco Dolz.

7 **Q.** Have you spoken with Mr. Dolz before?

8 **A.** Yes, I have.

9 **Q.** Did you speak to him the day of the jury selection?

10 **A.** Yes, I spoke with him.

11 **Q.** When?

12 **A.** When we got there, I asked him if I could go in, to which  
13 he also notified me that I could not go in.

14 **Q.** Why did he say you couldn't go in?

15 **A.** That it was a practice carried out in Puerto Rico; that it  
16 was a process between the jury, the codefendants and the  
17 attorneys.

18 **Q.** So that was in the morning before the proceedings began?

19 **A.** Correct.

20 **Q.** Despite his words to you, though, you still tried to go  
21 into the courtroom?

22 **A.** Yes, I did.

23 **Q.** And did you talk to him during the breaks or at the lunch  
24 period?

25 **A.** No.

ZUHEILY OTERO - (CROSS BY MR. HENWOOD)

1 Q. Did you see Maribel having any conversations with him on  
2 that date?

3 A. Yes, I did.

4 Q. Were you present with Maribel when he was explaining to  
5 you that you wouldn't be able to go in to the jury selection  
6 proceedings?

7 A. No, I wasn't.

8 Q. You had a separate conversation with him?

9 A. Correct.

10 MR. HENWOOD: Nothing further, Judge.

11 THE COURT: Any redirect?

12 MS. MIZNER: No, Your Honor.

13 THE COURT: Thank you very much, Ms. Otero. You are  
14 excused.

15 MR. RIVERA: Your Honor, the next witness is Damaris  
16 Gonzalez.

17 THE COURT: Damaris Gonzalez.

18 THE CLERK: Raise your right hand, please.

19 DAMARIS GONZALEZ GUITARD,

20 after having first been duly sworn to state the truth, the  
21 whole truth and nothing but the truth, testified as follows:

22 MR. RIVERA: May I proceed, Your Honor?

23 THE COURT: You may proceed, Mr. Rivera.  
24  
25

DAMARIS GONZALEZ - (DIRECT BY MR. RIVERA)

1 DIRECT EXAMINATION

2 **BY MR. RIVERA:**

3 **Q.** Ms. Gonzalez, good morning.

4 **A.** Good morning.

5 **Q.** Could you please tell us your complete name for the  
6 record.

7 **A.** Damaris Gonzalez Guitard.

8 **THE COURT:** Guitard, with a D at the end.

9 **BY MR. RIVERA:**

10 **Q.** Do you know Mr. Luis Rodriguez Sostre?

11 **A.** Yes, I do.

12 **Q.** How are you related to him?

13 **A.** My husband.

14 **Q.** Now, taking your attention to January 2010, on  
15 January 20th, 2010, did you have occasion to come to the  
16 court?

17 **A.** Yes.

18 **Q.** For what reason?

19 **A.** For the trial.

20 **Q.** Whose trial?

21 **A.** Of my husband.

22 **Q.** When you say your husband, you mean Luis Rodriguez Sostre?

23 **A.** Yes.

24 **Q.** Do you remember at what time did you arrive at the  
25 courthouse that day?

DAMARIS GONZALEZ - (DIRECT BY MR. RIVERA)

1 A. Yes.

2 Q. Can you tell us what time, please?

3 A. 8:30.

4 Q. Now, that day, did you bring anything for Mr. Rodriguez  
5 Sostre?

6 A. Yes.

7 Q. Can you tell us what did you bring for him?

8 A. The clothing.

9 Q. And what did you do with the clothing?

10 A. I would give it over to the marshals.

11 Q. Do you remember which marshal?

12 A. There were several.

13 Q. And that happened where?

14 A. In the hallway.

15 Q. The hallway when you come into the building or hallway --

16 A. Yes, where we come in.

17 Q. Now, that day, when did you leave this building, the  
18 courthouse, at what time did you leave that day?

19 A. 8:30 at night.

20 Q. Now, where were you during those hours?

21 A. In front of the courtroom, sitting on the benches.

22 Q. Why were you there?

23 A. Well, I was waiting to be told one thing or another.

24 Q. Like what?

25 A. What they were going to do, if they were going to let us

DAMARIS GONZALEZ - (DIRECT BY MR. RIVERA)

1 go in or not.

2 Q. And when you say "go in or not," are you talking about the  
3 courtroom?

4 A. Yes.

5 Q. Did you at any time try to go into the courtroom that day?

6 A. Yes.

7 Q. What did you do?

8 A. I was in the bathroom, and when I tried to go into the  
9 courtroom, they told us that -- they told me I couldn't go in.

10 Q. And that happened one time, two times, three times?

11 A. One time.

12 Q. Now, on the windows of the door, did you see anything?

13 A. Not when we came in. Not when we arrived.

14 Q. But later on?

15 A. Yes.

16 Q. What did you see?

17 A. They put white typewriter papers up against the window.

18 Q. Did you see the person or persons that may have put that  
19 paper on that window?

20 A. Yes, I did.

21 Q. And do you remember who that person was?

22 A. Yes.

23 Q. Do you know that person's name?

24 A. No, I don't.

25 Q. Can you describe that person to the Court?

DAMARIS GONZALEZ - (DIRECT BY MR. RIVERA)

1 A. Yes, it was the courtroom security officer.

2 Q. Physically, can you describe him?

3 A. Yes, he was chubby, he had no hair.

4 Q. And color skin?

5 A. White.

6 Q. Now, that day, do you know what happened inside

7 Judge Besosa's courtroom?

8 A. No, I don't.

9 Q. And why is that?

10 A. I wasn't told anything.

11 Q. But were you at any time inside the courtroom?

12 A. No.

13 Q. Do you remember what people were around you while you were

14 sitting or standing in front of the courtroom?

15 A. Yes.

16 Q. Can you tell us who?

17 A. The other family members.

18 Q. Whose family?

19 A. Of the Defendants.

20 Q. Now, do you recall who represented Mr. Rodriguez Sostre at

21 trial?

22 A. Yes.

23 Q. Can you tell us the lawyer's name?

24 A. Attorney Tirado.

25 Q. At any time did you talk to her about not being able to

DAMARIS GONZALEZ - (DIRECT BY MR. RIVERA)

1 come into the courtroom that day?

2 A. No.

3 Q. When was the first time that you found out that not being  
4 inside the courtroom during the jury selection could have some  
5 sort of impact, if any, on Mr. Rodriguez Sostre's case?

6 A. When I was called by the lawyer.

7 Q. Which lawyer?

8 A. You.

9 Q. Last question. January 20, 2010, at any time were you  
10 inside the courtroom?

11 A. No.

12 MR. RIVERA: No further questions, Your Honor.

13 THE COURT: Ms. Castellon, cross examination.

14 CROSS EXAMINATION

15 BY MS. CASTELLON:

16 Q. Mrs. Gonzalez, you mentioned that you are the wife of  
17 Mr. Rodriguez Sostre, correct?

18 A. Yes.

19 Q. And he is serving a life sentence, correct?

20 A. Yes.

21 Q. And he is in prison outside Puerto Rico?

22 A. Yes.

23 Q. You mentioned that you were aware that this could have an  
24 impact on your husband's case after he was convicted?

25 A. Yes.

DAMARIS GONZALEZ - (CROSS BY MS. CASTELLON)

1 Q. And you mentioned that you didn't discuss this matter, the  
2 fact that you were not allowed to go inside the courtroom on  
3 that day, with Counsel Tirado.

4 A. We did not discuss it.

5 Q. And January 20th, you arrived early to this courtroom?

6 A. Yes.

7 Q. That was first day of trial for your husband?

8 A. Yes.

9 Q. That was a very important day for you?

10 A. Yes.

11 Q. And you wanted to be here present in the courtroom?

12 A. Yes.

13 Q. And you're telling this Court that you didn't complain to  
14 the attorney who was representing your husband that you were  
15 not allowed to go in?

16 A. No, I did not complain.

17 Q. You did not complain the 20th?

18 A. No.

19 Q. Nor in the morning, nor in the afternoon?

20 A. No.

21 Q. And through all the three-month trial, you didn't  
22 complain?

23 MR. RIVERA: Objection, Your Honor. About what?

24 THE WITNESS: No.

25

DAMARIS GONZALEZ - (CROSS BY MS. CASTELLON)

1           **MS. CASTELLON:** About not being let in the courtroom.

2           **THE WITNESS:** No.

3 **BY MS. CASTELLON:**

4 **Q.** And you mentioned that other relatives were not allowed to  
5 go inside the courtroom.

6 **A.** Yes.

7 **Q.** Who were they?

8 **A.** Well, all of the other relatives of the Defendants.

9 **Q.** Who were they?

10 **A.** Well, Pepon's wife.

11 **Q.** Names, ma'am?

12 **A.** Suheil. Tito's family members.

13 **Q.** Tito being Wilfredo Rosario?

14 **A.** Yes. Josue's sister and myself.

15 **Q.** And you mentioned that the person who did not allow you to  
16 go inside the courtroom was the security officer.

17 **A.** Yes.

18 **Q.** And you described that person.

19 **A.** Yes.

20 **Q.** And you saw that person through all the trial?

21 **A.** Yes.

22 **Q.** Where was he standing on January 20th, when you mentioned  
23 that the court security officer didn't allow you to go in?

24 **A.** He was standing next to the jury.

25 **Q.** Where?

DAMARIS GONZALEZ - (CROSS BY MS. CASTELLON)

1 A. (Indicating).

2 MS. CASTELLON: Just for the record, Your Honor, the  
3 witness just pointed to the jury bench where they were seated.

4 BY MS. CASTELLON:

5 Q. So you were inside the courtroom when you were not  
6 allowed?

7 A. No.

8 Q. You mentioned that he was inside the courtroom?

9 A. Who?

10 Q. The security officer.

11 A. The officer was; I wasn't.

12 Q. And where did that event specifically, I'm asking you,  
13 where did that person who didn't allow you to go in, where did  
14 that happen?

15 A. At the door.

16 Q. At the door. Inside the courtroom?

17 A. No.

18 Q. So he was outside the courtroom?

19 A. No, I was outside.

20 Q. And where was he?

21 A. Standing in the doorway. When we were trying to go in, he  
22 would not let us.

23 Q. When you say "we," you're referring to whom?

24 A. Myself and the other family members of the codefendants.

25 Q. Ma'am, who prepared your sworn statement?

DAMARIS GONZALEZ - (CROSS BY MS. CASTELLON)

1 A. I did.

2 Q. Did you write it down?

3 A. I wrote it.

4 Q. You typed it?

5 A. No.

6 Q. Who wrote it?

7 A. The lawyer.

8 Q. Who was the attorney?

9 A. The lawyer.

10 Q. Attorney Rivera?

11 A. Yes.

12 Q. He was the one who drafted the affidavit?

13 A. No.

14 Q. Who wrote it?

15 A. The lawyer in Vega Baja, but I don't recall the name.

16 Q. And the information that is contained in that sworn

17 statement, who provided it?

18 A. I did.

19 Q. Do you know what is a straight plea?

20 MR. FERNANDEZ: Objection, relevance.

21 THE COURT: I'm sorry, what was the question?

22 MS. CASTELLON: The term straight plea.

23 MR. FERNANDEZ: Objection, relevance.

24 THE COURT: Approach the bench.

25 (Whereupon the following proceedings took place at

DAMARIS GONZALEZ - (CROSS BY MS. CASTELLON)

1 sidebar:)

2           **MR. FERNANDEZ:** Your Honor, the attorney who is in  
3 the mentoring program, she wants to come in.

4           **THE COURT:** Who?

5           **MR. FERNANDEZ:** The attorney who is in the mentoring  
6 program, she asked me to ask you if she --

7           **THE COURT:** Of course.

8           **MS. KOURY:** I'm sorry, Judge, I didn't hear the  
9 question.

10           **MS. CASTELLON:** Does she know -- she has stated that  
11 she was the one who provided the information for the affidavit  
12 to be drafted. And I got the objection from counselor --

13           **THE COURT:** No, the question was --

14           **MS. CASTELLON:** If she knows the term straight plea.

15           I'm referring to her sworn statement, Paragraph 3,  
16 where she says that "The trial in criminal case 08-310 was  
17 scheduled to start January 19th for three of the defendants.  
18 Luis Sostre, German Hernandez and Jose Rodriguez decided not to  
19 proceed to trial, instead they were advised about a straight  
20 plea."

21           **MR. FERNANDEZ:** I withdraw the objection.

22           **THE COURT:** Okay.

23           (Proceedings held in open court.)

24           **THE COURT:** The objection has been withdrawn. So why  
25 don't you repeat the question, please.

DAMARIS GONZALEZ - (CROSS BY MS. CASTELLON)

1 **BY MS. CASTELLON:**

2 **Q.** What is a straight plea?

3 **A.** Well, something where we didn't reach an agreement.

4 **Q.** And you know the term "straight plea"?

5 **A.** Yes.

6 **Q.** And it's contained in your affidavit?

7 **A.** Yes.

8 **Q.** I'm going to ask one last question. If you knew and it is  
9 your testimony today that the person who did not allow you to  
10 go inside the courtroom was the court security officer, why  
11 you didn't say that before?

12 **MR. HERNANDEZ:** Objection, Your Honor, as to form;  
13 before when?

14 **THE COURT:** Before today.

15 **MS. CASTELLON:** Before today.

16 **THE COURT:** Let me see that affidavit.

17 **MS. CASTELLON:** Let me rephrase.

18 (Pause.)

19 **THE COURT:** All right. Please rephrase the question.

20 **BY MS. CASTELLON:**

21 **Q.** Mrs. Gonzalez, you subscribe, and you just testified that  
22 you subscribed a sworn statement; correct?

23 **A.** Yes.

24 **Q.** And it was you who provided the information that is  
25 contained in that affidavit?

DAMARIS GONZALEZ - (CROSS BY MS. CASTELLON)

1 A. Yes.

2 Q. Isn't it true that in that affidavit you don't mention  
3 that the person who did not allow you to go inside the  
4 courtroom was the security officer?

5 A. Yes, I mentioned it.

6 THE COURT: Excuse me. Let me ask you this,  
7 Ms. Gonzalez.

8 Mr. Velez, will you please stand.

9 The person who did not allow you into the courtroom,  
10 Ms. Gonzalez, was he dressed like Mr. Velez?

11 THE WITNESS: Yes.

12 THE COURT: Thank you, Mr. Velez.

13 BY MS. CASTELLON:

14 Q. And in your testimony you mentioned that it was one of the  
15 marshals.

16 A. Yes, for courtroom.

17 MS. CASTELLON: I have no further questions.

18 THE COURT: Any redirect, Mr. Rivera?

19 MR. RIVERA: I have a few questions, yes.

20 REDIRECT EXAMINATION

21 BY MR. RIVERA:

22 Q. Ms. Gonzalez, did you have the opportunity to be in this  
23 court on January 19, 2010?

24 A. No.

25 THE COURT: You mean the courtroom --

DAMARIS GONZALEZ - (REDIRECT BY MR. RIVERA)

1           **MR. RIVERA:** Not in this courtroom, in the federal  
2 building.

3           **THE COURT:** The whole court.

4           **MR. RIVERA:** Right.

5           **THE WITNESS:** Yes.

6 **BY MR. RIVERA:**

7 **Q.** The 19th, you were present?

8 **A.** Yes, I was.

9 **Q.** Why did you come to this building on January 19, 2010?

10 **A.** Because the trial was going to begin.

11 **Q.** Did the trial take place that day, did it start?

12 **A.** No.

13 **Q.** The information, did you provide to this counsel, did you  
14 write it out?

15 **A.** Yes.

16 **Q.** In what language did you write that information?

17 **A.** In Spanish.

18           **MR. RIVERA:** Nothing further, Your Honor.

19           **THE COURT:** Thank you very much, Ms. Gonzalez.

20           **MS. CASTELLON:** Your Honor, if we may, can we get a  
21 copy of that?

22           **THE COURT:** Of the Spanish written? Yes. If you  
23 have it.

24           **MR. RIVERA:** I have it here.

25           **THE COURT:** Please show it to the Government.

1           **MR. RIVERA:** (Handing.)

2           **MS. CASTELLON:** Can we approach?

3           **THE COURT:** Of course.

4           (Whereupon the following proceedings took place at  
5 sidebar:)

6           **MS. CASTELLON:** Just for the record, I'm referring to  
7 the document that was just provided to us regarding  
8 Mrs. Damaris Gonzalez's testimony, written in Spanish by  
9 herself, and it has a date and we would like to address to the  
10 attention the Court that she mentioned in that document that  
11 the jury selection lasted two days.

12           **THE COURT:** Let me see. And?

13           **MS. CASTELLON:** And the sworn statement subscribed by  
14 Damaris Gonzalez that is part of the record states that the  
15 jury selection was postponed for the following date,  
16 January 20th and 21. And she says that on those days, which  
17 she's not referring to a single day, she's referring to two  
18 days, the jury selection took place. It's contrary to the  
19 testimony that is presented that it was one day.

20           **THE COURT:** So what do you want to do?

21           **MS. CASTELLON:** I'm going to cross examine, but I'm  
22 going to request that this document, the document that it was  
23 written, handwritten by this witness, to be also -- to be  
24 translated and be part of the record, because it's totally  
25 inconsistent with what is stated in the sworn statement and

1 her testimony here in the courtroom.

2           **THE COURT:** Well, I don't know if it's totally  
3 inconsistent.

4           **MS. CASTELLON:** She's saying that one day it happened  
5 the jury selection and the day after was the day that the  
6 courtroom was closed, the papers was placed on the glass  
7 windows.

8           **MR. RIVERA:** If I'm not mistaken --

9           **THE COURT:** Hold on.

10           All right. We will mark it as part of the record, but  
11 you're going to have to get the translation.

12           **MS. MIZNER:** Your Honor, was the jury called to come  
13 into court on the 19th?

14           **THE COURT:** Let me -- I don't recall. Let me ask my  
15 courtroom deputy.

16           (Pause.)

17           We're going to have to ask the jury clerk to see  
18 whether jurors were actually requested to come in on the 19th,  
19 but what my courtroom deputy tells me, and my recollection is,  
20 that they were not brought to the courtroom because we took  
21 these pleas, and what we did was -- I probably told them to  
22 come the next day.

23           **MS. CASTELLON:** If I may, Your Honor.

24           **THE COURT:** We'll find out.

25           **MS. CASTELLON:** I remember from reading transcripts

1 of the jury selection, that one of the jurors is asked  
2 regarding an incident; that there was an objection, that he  
3 was discussing -- that he knew one of the Defendants and that  
4 he discussed that with the fellow members of the jury panel.  
5 And he mentioned that they were in an assembly room that they  
6 had the day before. So that situation is addressed, that they  
7 were outside the courtroom, that they were in the assembly  
8 room.

9 **THE COURT:** They were in the jury assembly room.

10 **MS. CASTELLON:** But not here.

11 **THE COURT:** But they were not brought into court  
12 because we were going to take those straight pleas.

13 **MS. MIZNER:** Thank you, Your Honor.

14 **MR. RIVERA:** Which is what she says in the affidavit.

15 **THE COURT:** Well, no, but I think what Ms. Castellon  
16 is saying, it says here -- and I'm translating as well as I  
17 can -- it says: While the selection was being conducted in  
18 courtroom number 3 of Judge Francisco Besosa, we were not  
19 allowed to enter the courtroom, and on the next day, they  
20 placed white paper -- white typewritten paper -- typewriter  
21 paper in the windows of both doors to obstruct the vision of  
22 the family members to the courtroom. That's what it says.

23 **MR. RIVERA:** It's consistent with her testimony, if  
24 it's one day, you know, it's proceedings.

25 **THE COURT:** No, I think there may be a difference.

1 So we will mark that for the record and have that translated  
2 by tomorrow.

3 **MS. CASTELLON:** Your Honor, I doubt we will have it  
4 by tomorrow. I have to make the request.

5 **MR. HENWOOD:** Can we have the interpreter read it, it  
6 will take a minute or two minutes, at the end of the  
7 proceedings?

8 **THE COURT:** Yes, we can do that.

9 (Proceedings held in open court.)

10 RECROSS-EXAMINATION

11 **BY MS. CASTELLON:**

12 **Q.** Mrs. Gonzalez --

13 **MS. CASTELLON:** Can we have the document marked so we  
14 can show it to the witness?

15 **THE COURT:** Of course. Any objection?

16 **MR. FERNANDEZ:** No, Your Honor.

17 **MR. RIVERA:** No, Your Honor.

18 **THE CLERK:** Government's Exhibit 1.

19 **THE COURT:** Government Exhibit 1.

20 **BY MS. CASTELLON:**

21 **Q.** Mrs. Gonzalez, we are handing you what has been marked as  
22 Government's Exhibit 1.

23 Do you recognize the document?

24 **A.** Yes.

25 **Q.** What is it?

DAMARIS GONZALEZ - (RECROSS BY MS. CASTELLON)

1 A. What I wrote.

2 Q. It is what you wrote and you gave to the attorney?

3 A. Yes.

4 Q. And it's your statement of what happened during jury  
5 selection?

6 A. Yes.

7 Q. That document, Mrs. Gonzalez, you wrote specifically what  
8 you recall that happened during jury selection?

9 A. Yes.

10 MS. CASTELLON: Can we approach the witness,  
11 Your Honor, so we can have her to read out loud a portion of  
12 the document?

13 THE COURT: I think that if we start where I started  
14 at sidebar, the sentence that starts with *Mientras*, have her  
15 read it in Spanish and Mr. Kavelin can translate it.

16 MS. CASTELLON: Your Honor, can we have her to read  
17 out loud the whole document so we can have it on the record  
18 and the translation at the time?

19 THE COURT: Well, it's in evidence. And we can have  
20 Mr. Kavelin read an English translation into the record, but  
21 as far as this particular item, yes, she can read that in  
22 Spanish.

23 BY MS. CASTELLON:

24 Q. Ma'am, can you read the part where it specifically  
25 mentions the jury selection?

DAMARIS GONZALEZ - (RECROSS BY MS. CASTELLON)

1 A. Yes.

2 THE COURT: Mr. Kavelin, where it starts *Mientras*  
3 almost at the bottom.

4 Please read that in Spanish.

5 (Whereupon the witness read in Spanish the portion  
6 referred to.)

7 THE INTERPRETER: Does the Court wish the interpreter  
8 to read the entire document or that portion?

9 THE COURT: Just that portion now.

10 THE INTERPRETER: "While said selection was being  
11 carried out inside courtroom number 3 of Judge Francisco  
12 Besosa, we were not allowed to go into the courtroom, and the  
13 next day white typewriter paper was placed on the windows of  
14 both doors in order to obstruct the view of the family members  
15 into the courtroom."

16 BY MS. CASTELLON:

17 Q. So, Mrs. Gonzalez, is it your testimony -- and which you  
18 wrote down -- that that jury selection lasted two days?

19 A. No.

20 Q. I'm referring to the document.

21 A. Yes, because the first day --

22 Q. Which date it says that the jury selection was conducted?

23 A. January 20th.

24 Q. Any other day?

25 A. No.

DAMARIS GONZALEZ - (RECROSS BY MS. CASTELLON)

1 Q. Let me address your attention, then, specifically to the  
2 document, it says 20 and 21.

3 A. Yes.

4 Q. So it says both days, correct?

5 A. Yes.

6 MS. CASTELLON: I have no further questions.

7 MR. RIVERA: Your Honor, just give me a second.

8 Your Honor, can we have the document for a second?

9 THE COURT: Of course.

10 (Pause.)

11 RE-REDIRECT EXAMINATION

12 BY MR. RIVERA:

13 Q. Ms. Gonzalez, more than a year has gone by since the trial  
14 started last year, correct?

15 A. Yes.

16 Q. And your testimony before the Court is your best  
17 recollection?

18 A. Yes.

19 Q. And the jury selection took place on what day?

20 A. The 20th.

21 MR. RIVERA: Nothing further, Your Honor.

22 MS. CASTELLON: I have a question for her.

23 THE COURT: Go ahead.

24

25

DAMARIS GONZALEZ - (RE-RECROSS)

RE-RECROSS EXAMINATION

1  
2 **BY MS. CASTELLON:**

3 **Q.** But that isn't what you wrote and what you swore on your  
4 affidavit that is part of the record in this case?

5 **A.** Yes.

6 **Q.** That it's consistent?

7 **A.** I wrote it.

8 **THE COURT:** Thank you very much, Ms. Gonzalez.  
9 You're excused.

10 Before we proceed, Mr. Kavelin, would you please read  
11 this entire document for the record.

12 **THE INTERPRETER:** Yes, Your Honor.

13 **THE COURT:** Into English, translate it into English.

14 **THE INTERPRETER:** May 10th, 2011. I, Damaris  
15 Gonzalez Guitard, 28 years of age, married, legal, and  
16 resident of --

17 **THE COURT:** Married legally.

18 **THE INTERPRETER:** Well, legally married and resident  
19 of 850 Mercurio Street, Sandin Barriada, Vega Baja, Puerto  
20 Rico, 00693.

21 I declare that on January 19th, 2010, I -- there was a  
22 trial scheduled to begin, but three of the defendants, Luis M.  
23 Sostre, German Hernandez and Jose Rodriguez, decided not to go  
24 to trial and were given orientation about a straight plea,  
25 which they were in agreement with said orientation.

1           In this way the selection of the jury was postponed  
2 for the following day, January 20th, 2010, and on January 21,  
3 2010. During these days, the selection of the jury was held  
4 against my husband, Luis O. Rodriguez Sostre, and the other  
5 defendants, Josue Perez Mercado, Ramon Maysonet Soler, Jose  
6 Negron Sostre and Wilfredo Rosario Camacho.

7           While said jury selection was being done in courtroom  
8 number 3 of Judge Francisco Besosa, we were not allowed to go  
9 into the courtroom. And the following day, white typewriter  
10 paper was placed on the windows of both doors to obstruct the  
11 view of the family members into the courtroom.

12           Cordially, Damaris Gonzalez.

13           Signed, Damaris Gonzalez.

14           **THE COURT:** Thank you.

15           **MS. CASTELLON:** Just for record, the document that we  
16 were referring that is Mrs. Gonzalez Guitard's sworn  
17 statement, is part of the document submitted. And I don't  
18 have the docket number, but it's the response submitted by  
19 Luis Rodriguez Sostre. Luis Rodriguez Sostre replied to the  
20 United States' Response in Opposition to Defendant's Motion to  
21 Supplement Record On Appeal. I don't have the docket number,  
22 but that document, that sworn statement, it's contained in  
23 that response.

24           **THE COURT:** All right. Thank you.

25           Next witness, please. Mr. Hernandez.

1           **MR. HERNANDEZ:** The next witness will be Suheil Rosa.

2           **THE CLERK:** Raise your right hand, please.

3                           SUHEIL ROSA NIEVES,

4 after having first been duly sworn to state the truth, the  
5 whole truth and nothing but the truth, testified as follows.

6           **THE COURT:** Ms. Rosa, if at any moment you would  
7 prefer to answer in Spanish or you need assistance in a  
8 particular word, Mr. Kavelin will help you.

9           **THE WITNESS:** Thank you.

10          **THE COURT:** Please go ahead, Mr. Hernandez.

11          **MR. HERNANDEZ:** Thank you, Your Honor. I request the  
12 Court's indulgence if I'm a little bit slow, I'm dealing with  
13 the flu.

14                           DIRECT EXAMINATION

15 **BY MR. HERNANDEZ:**

16 **Q.** Good morning, ma'am. Your name, please.

17 **A.** Good morning. My name is Suheil Rosa.

18 **Q.** Second last name?

19 **A.** My second last name, Nieves.

20 **Q.** Ms. Rosa, do you know any of the Defendants in this case?

21 **A.** Yes.

22 **Q.** Whom do you know?

23 **A.** All of them.

24 **Q.** All of them. Why do you know them?

25 **A.** Because we were always together as family.

SUHEIL ROSA - (DIRECT BY MR. HERNANDEZ)

1 Q. As family. Are you a direct family member of any of them?

2 A. Yes.

3 Q. Of whom?

4 A. I am married to Ramon Maysonet Soler.

5 Q. You are legally married --

6 A. Yes.

7 Q. -- to Mr. Maysonet?

8 I direct your attention to January 2010.

9 Ms. Rosa, I ask you first, were you interested in  
10 attending trial in this case?

11 A. Yes.

12 Q. You did come to the courthouse?

13 A. Yes.

14 Q. On which dates during January, if you remember?

15 A. All of them.

16 Q. All of them, starting when?

17 A. Starting January 19, 2010.

18 Q. Do you recall at what time you got here on January 19th?

19 A. It was around 8:00 in the morning, approximately.

20 Q. With whom you attended the courthouse on January 19th?

21 A. My mother-in-law, my father-in-law.

22 Q. Do you recall what happened that day, on January 19th, in  
23 relation to the trial in this case?

24 A. Well, I wasn't aware what was going on in the courtroom  
25 because we never attended inside the courtroom.

SUHEIL ROSA - (DIRECT BY MR. HERNANDEZ)

1           **THE COURT:** We're talking about January 19th?

2           **MR. HERNANDEZ:** Yeah, we are still on the 19th.

3           **THE COURT:** Okay. Thank you.

4           **BY MR. HERNANDEZ:**

5           **Q.** And during that day, did trial actually commence during  
6 that day?

7           **A.** No. No.

8           **Q.** At what time, if any, you departed from the courthouse?

9           **A.** In the afternoon, around 4, 4:30.

10          **Q.** Okay. Were you -- did you came into the courthouse any  
11 other day?

12          **A.** Yes, we came the next day.

13          **Q.** Which was which number?

14          **A.** On the 20.

15          **Q.** On the 20th. And what happened during the 20th; at what  
16 time did you got here?

17          **A.** When we got here, it was approximately 8, 8:30.

18          **Q.** Who were you with?

19          **A.** My mother-in-law, my father-in-law.

20          **Q.** Can you give us the names of both persons?

21          **A.** Yes, my father-in-law, Ramon Maysonet Serrano.

22          **Q.** Okay.

23          **A.** And my mother-in-law, Carmen Soler Lopez.

24          **Q.** I ask you, what happened during that day, specific day,  
25 January 20th?

SUHEIL ROSA - (DIRECT BY MR. HERNANDEZ)

1 A. Well, when we got here, there were many people in the  
2 lobby area.

3 Q. When you say "the lobby area," are you referring to the  
4 hallway right --

5 A. Yes.

6 Q. -- in front of the courtroom?

7 A. Yes, correct.

8 Q. Thank you.

9 A. We just stayed there. The Defendants came in. It was in  
10 the courtroom number 4. And we just stayed outside during all  
11 day.

12 Q. Did, at any time, did you try to go into the courtroom?

13 A. We were trying to peek through the windows, but every time  
14 we peeked, Mr. Sierra came and he told us not to do that, that  
15 that wasn't allowed.

16 Q. I'm going to ask you something, before -- I mean, was  
17 there a time that you tried to actually go into the courtroom?

18 A. Well, not trying, like going in, no. I asked my husband's  
19 attorney.

20 Q. Which is? Who is that person?

21 A. Alexander Zeno.

22 Q. Mr. Zeno, you asked Mr. Zeno. And what happened?

23 A. And he told me that's something that is usual, that the  
24 lawyers, prosecutors, judge, defendants and *the posibles*  
25 *jurado* --

SUHEIL ROSA - (DIRECT BY MR. HERNANDEZ)

1           **THE INTERPRETER:** Potential jurors.

2           **MR. HERNANDEZ:** Prospective jurors.

3           **THE WITNESS:** -- were only allowed in the courtroom.

4 **BY MR. HERNANDEZ:**

5 **Q.** So, therefore, you stayed outside trying to peek?

6 **A.** Yes.

7 **Q.** And when I say outside -- you correct me if I'm wrong --  
8 it's the hallway where the benches are, right in front of the  
9 courtroom's door?

10 **A.** Yes.

11 **Q.** And then you say you started peeking.

12       Was this during morning hours? Was it during afternoon  
13 hours? When was that?

14 **A.** We tried -- I tried at least during -- most of the time we  
15 stood here until late at night.

16 **Q.** And were you able to peek?

17 **A.** Some of the times, in the morning, yes.

18 **Q.** And those times, you mentioned to my questions before,  
19 that Sierra was the one controlling that peeking --

20 **A.** Yes.

21 **Q.** -- is that correct?

22 **A.** Yes.

23 **Q.** And why do you say that only during the morning were you  
24 peeking?

25 **A.** Because in the afternoon he put white papers and locked

SUHEIL ROSA - (DIRECT BY MR. HERNANDEZ)

1 the doors, therefore, we couldn't see at all.

2 Q. And why do you say that it was Mr. Sierra? How do you  
3 identify him?

4 A. Because I saw him placing the white papers.

5 Q. And how do you identify Mr. Sierra? Why do you identify  
6 him?

7 A. Because he was always in the room, in the courtroom.

8 Q. So you saw him afterwards?

9 A. Yes.

10 Q. But at any time during the jury selection process during  
11 June -- sorry, January 20th, were you able to come into the  
12 courtroom?

13 A. No.

14 Q. No time. At what time did you left the courthouse on that  
15 day?

16 A. I would say approximately 9:00 in the night.

17 Q. Nine at night. And while you were out in the hallway in  
18 front of the courtroom, was there anyone coming in or going  
19 out of that courtroom?

20 A. The jurors, the ones that were not selected, they were  
21 coming out.

22 Q. They were coming out.

23 And do you recall if at any time, point in time, the door  
24 was locked in that courtroom?

25 A. Yes.

SUHEIL ROSA - (DIRECT BY MR. HERNANDEZ)

1 Q. Why do you recall that?

2 A. Every time the jurors went out, Mr. Sierra opened and  
3 locked.

4 Q. And during the whole January 20th jury selection process,  
5 you were outside with the two persons that you mentioned were  
6 with you?

7 A. Yes.

8 Q. Was there anyone else outside?

9 A. Yes, other family members of the Defendants.

10 Q. Of which Defendants?

11 A. Of Luis Rodriguez, Jose Negron, Wilfredo Rosario and Josue  
12 Perez.

13 MR. HERNANDEZ: Just a second, Your Honor.

14 No more questions.

15 THE COURT: Cross examination. Mr. Henwood.

16 CROSS EXAMINATION

17 BY MR. HENWOOD:

18 Q. Good morning, Ms. Rosa.

19 A. Good morning.

20 Q. Ma'am, just a few questions.

21 You had a conversation with Alexander Zeno. He was the  
22 attorney for your husband during the trial, correct?

23 A. Yes, that is correct.

24 Q. Do you know if he was a retained attorney or  
25 court-appointed attorney?

SUHEIL ROSA - (CROSS BY MR. HENWOOD)

1 A. I don't understand the question.

2 Q. Did you all have to pay for him to represent your husband  
3 or did the court appoint him as your attorney?

4 A. No, it was a paying attorney.

5 Q. When did you have that conversation with him about whether  
6 or not you were going to be allowed to go into the courtroom  
7 during the jury selection?

8 A. I don't recall the time exactly, but every time the lawyer  
9 came out -- once, I think it was break time or -- well, one of  
10 those times I asked him.

11 Q. And to the best of your recollection, what was that  
12 conversation? Give us the details.

13 A. I just asked him if we were allowed to go in, and he said  
14 that that's a procedure that is always taken like that.

15 Q. Do you know if other people that were there for other  
16 defendants had similar conversations with the attorneys for  
17 their particular defendant?

18 A. I think so, yes.

19 Q. Were you able to observe any of those conversations?

20 A. Not observe, not listen to them, but we always commented,  
21 like spoke between each other.

22 And like I said, I told them, the other family members, we  
23 are not allowed because this is something that is usual.

24 Q. And do you remember who you had those conversations with?

25 A. Yes.

SUHEIL ROSA - (CROSS BY MR. HENWOOD)

1 Q. Who?

2 A. Zuheily; my mother-in-law; my father-in-law.

3 Q. Who is Zuheily?

4 A. Zuheily Otero.

5 Q. Do you remember when you had that conversation?

6 A. Right at the moment.

7 Q. And what did you comment amongst each other?

8 A. Nothing, that it's something that we didn't see -- we're  
9 not aware of those details.

10 Q. Did you ask the attorney to ask for permission from the  
11 Judge to be let in?

12 A. No.

13 Q. Did you see how many -- approximately how many jurors were  
14 brought in that morning?

15 A. There were many people here. I did not count them, sorry.

16 Q. You didn't count them.

17 When you were able to peek in, where were the Defendants  
18 seated when you peeked in?

19 A. In the courtroom number 4, right there.

20 Q. Right there.

21 A. Where they are right now.

22 Q. And the marshals, where were the marshals seated?

23 MR. HERNANDEZ: I'm sorry to object, but may we let  
24 the record reflect where is "right there." It's the front  
25 bench of the right-hand side of the courtroom, I think that's

SUHEIL ROSA - (CROSS BY MR. HENWOOD)

1 what she said.

2 **MR. HENWOOD:** That's correct, Judge.

3 **BY MR. HENWOOD:**

4 **Q.** And where were the marshals seated?

5 **A.** Behind them.

6 **Q.** And the jurors were seated in the other available spaces?

7 **A.** Yes.

8 **MR. HENWOOD:** Nothing further, Your Honor.

9 **THE COURT:** Any redirect, Mr. Hernandez?

10 REDIRECT EXAMINATION

11 **BY MR. HERNANDEZ:**

12 **Q.** Ms. Rosa, how did you know where people were seated?

13 **A.** I don't know -- I did not recognize who was sitting where,  
14 I just saw a lot of people.

15 I know where the Defendants were. I know who the lawyers  
16 were. I know who the prosecutors were. I know where the  
17 Judge sits, but I don't know who is who. I know the marshals.

18 **Q.** But were you aware of their seating spaces why? How were  
19 you able to see them?

20 **A.** I just peeked.

21 **Q.** Because you were peeking?

22 **A.** Yes.

23 **Q.** One other question. You depicted Mr. Sierra. Was  
24 Mr. Sierra dressed as our co-worker here?

25 **A.** Yes, that is correct.

SUHEIL ROSA - (REDIRECT BY MR. HERNANDEZ)

1           **MR. FERNANDEZ:** For the record, she means the court  
2 security officer.

3 **Q.** One other question --

4           **MR. HERNANDEZ:** I withdraw, Your Honor. No further  
5 questions.

6           **THE COURT:** Thank you very much, Ms. Rosa. You're  
7 excused.

8           **THE WITNESS:** Okay. Thank you.

9           **THE COURT:** Next witness, please.

10           **MR. FERNANDEZ:** Miriam Ramos, Your Honor.

11 Can we take a five-minute break until we find Miriam?

12           **THE COURT:** Let's take a break until a quarter of 12.  
13 (Recess.)

14           **THE COURT:** Please take Ms. Ramos' oath.

15           **THE CLERK:** Raise your right hand, please.

16                           MIRIAM RAMOS GRATEROLES,

17 after having first been duly sworn to state the truth, the  
18 whole truth and nothing but the truth, testified as follows:

19           **MR. FERNANDEZ:** May it please the Court?

20           **THE COURT:** You may proceed, Mr. Fernandez.

21                           DIRECT EXAMINATION

22 **BY MR. FERNANDEZ:**

23 **Q.** Good morning.

24 **A.** Good morning.

25 **Q.** It's a pleasure to see you.

MIRIAM RAMOS - (DIRECT BY MR. FERNANDEZ)

1        Could you state your name for the record.

2    **A.**   Miriam Ramos Grateroles.

3    **Q.**   What is your profession?

4    **A.**   Attorney.

5    **Q.**   Are you admitted to this court?

6    **A.**   Yes.

7    **Q.**   When were you admitted?

8    **A.**   1975.

9    **Q.**   About how many -- in those few years that you have been  
10 admitted, about how many trials have you tried?

11 **A.**   Honestly, I have lost the account, I cannot tell, but I  
12 believe more than 30, more than 40.

13 **Q.**   Between 30 or 40?

14 **A.**   Yes, or 50, more or less.

15 **Q.**   Madam, were you related -- were you an attorney in this  
16 case, 08-310?

17 **A.**   Yes, I was.

18 **Q.**   Who was your client?

19 **A.**   Josue Perez Mercado.

20 **Q.**   If I bring your attention to the voir dire of that -- of  
21 this case, were you present during voir dire?

22 **A.**   Certainly.

23 **Q.**   Could you tell us pretty much where was everybody sitting,  
24 where were Defendants sitting, where were marshals, where were  
25 the potential jurors sitting in the courtroom?

MIRIAM RAMOS - (DIRECT BY MR. FERNANDEZ)

1 A. Well, the Defendants were seated where they are now, the  
2 marshals behind them. There were more marshals. And the jury  
3 was in the public, the potential jury members.

4 Q. Did they take up the whole room?

5 A. Yes, yes.

6 Q. Were any family members present during --

7 A. No, they are not allowed.

8 Q. What do you mean they're not allowed?

9 A. Well, it has been a practice, as far as I can remember,  
10 that during the jury selection, the public, the family  
11 members, are not allowed in court.

12 Q. In those 30 or 40 trials that you have tried, ma'am, did  
13 you ever encounter a trial where family members were allowed  
14 in?

15 A. None that I recall of, none.

16 Q. Did you have any discussions with any of the marshals or  
17 the court officers, to allow, to make any type of provisions  
18 to allow the family members to come in during voir dire?

19 A. No, sir.

20 Q. Did you talk -- did you talk to your client or your  
21 client's family regarding whether or not they could come into  
22 the courtroom regarding -- during voir dire?

23 A. Well, my -- my client's sister, Carla, she brought the  
24 clothing the first day and the days after, and the first day  
25 she asked me if she could enter into the courtroom, and I say,

MIRIAM RAMOS - (DIRECT BY MR. FERNANDEZ)

1 "No, you are not allowed."

2 Q. And that was your belief at that time?

3 A. Yes. And as a matter of fact, my client also asked me if  
4 his sister could be present, and I told him, "No, she's not  
5 allowed."

6 Q. While voir dire was coming up, was taking place, did you  
7 notice anything about doors, about the windows?

8 A. Well, they stick a paper in the glass, they stick a paper,  
9 and you cannot look from the outside to the inside, nor from  
10 the inside to the outside.

11 Q. Do you remember when was that done?

12 A. The paper, I don't recall when it was placed, but I recall  
13 that the paper was there.

14 Q. Were you able to see who placed the paper?

15 A. No, no. No, sir.

16 Q. Would it be fair to say that it wasn't a tactical decision  
17 on your part not to allow -- to tell the family members that  
18 they couldn't come in?

19 A. A tactical decision? Not really a tactical decision; the  
20 practice in this court is that the public, the family members  
21 are not allowed when the jury selection goes on, and it has  
22 happened through many years.

23 So it was not tactical, it was just informative.

24 Q. It was just what you thought correct at the time?

25 A. Yes, what I thought was right and what I had seen in many

MIRIAM RAMOS - (DIRECT BY MR. FERNANDEZ)

1 years.

2 Q. Did you object to that?

3 A. No, I did not object.

4 Q. Why not?

5 A. I did not raise the matter because that was the standard  
6 proceeding in this court. I took it for good.

7 Q. For granted, yes.

8 A. Yes.

9 MR. FERNANDEZ: Thank you, ma'am.

10 Nothing further, Your Honor.

11 THE COURT: Cross examination. Ms. Castellon.

12 CROSS EXAMINATION

13 BY MS. CASTELLON:

14 Q. Mrs. Ramos Grateroles, how long have you been an attorney?

15 A. Since 1975.

16 Q. 1975. And you, as you mentioned, you have tried many,  
17 many cases?

18 A. Yes.

19 Q. Are you aware of the Sixth Amendment?

20 A. I believe so.

21 Q. You believe so?

22 A. Yes.

23 Q. Are you aware of the Sixth Amendment?

24 A. Yes.

25 Q. You are aware that your client --

MIRIAM RAMOS - (CROSS BY MS. CASTELLON)

1 A. I'm sorry, could you approach the microphone so I can hear  
2 you.

3 Q. Can you explain what is the Sixth Amendment right of your  
4 client?

5 A. You want me to explain the Sixth Amendment right?

6 Q. Yes.

7 A. Those are the rights that the Constitution provides the  
8 defendant, and that he has the right to a public trial, that's  
9 one of the ones. And I believe that's the issue here.

10 He has the right to an attorney, and so forth, there are a  
11 lot of Constitutional rights he is entitled to.

12 Q. And that is the right of your client?

13 A. Yes, that's correct.

14 Q. And as part of your duties as an attorney that practices  
15 here in federal court, you have the duty to represent your  
16 client and assert every right that he has, correct?

17 A. That's correct.

18 Q. That's correct. And it's only him the one who can  
19 relinquish his rights, correct?

20 A. Yes, that's correct.

21 Q. And you mentioned today that even though you were aware of  
22 the Sixth Amendment right and that you had the duty to  
23 represent your client -- and I understand your client is Josue  
24 Perez Mercado, correct?

25 A. That's correct.

MIRIAM RAMOS - (CROSS BY MS. CASTELLON)

1 Q. You did not assert his rights?

2 MR. FERNANDEZ: Objection, Your Honor, to the plural,  
3 "rights".

4 MS. CASTELLON: Sixth Amendment rights --

5 THE COURT: We're talking here about the right to a  
6 public trial; that, everybody knows.

7 MR. FERNANDEZ: Then I withdraw.

8 THE COURT: And the question is whether -- well,  
9 let's put it this way, Ms. Ramos: Did you object to the Court  
10 as to the fact that the family members were not allowed in the  
11 courtroom during the voir dire?

12 THE WITNESS: No, I did not, Judge.

13 BY MS. CASTELLON:

14 Q. You did not make the timely objection, but you discussed  
15 that with your client?

16 A. No, I didn't.

17 Q. You mentioned today that you discussed the fact that your  
18 client asked you why his sister would not go inside the  
19 courtroom, and you said --

20 THE COURT: No, I think the question was that  
21 Mr. Perez Mercado asked her whether his sister could be  
22 present, and she told him no because of the procedure in this  
23 district.

24 I think that was your testimony. Am I correct,  
25 Ms. Ramos?

MIRIAM RAMOS - (CROSS BY MS. CASTELLON)

1           **THE WITNESS:** Yes, Your Honor.

2           **BY MS. CASTELLON:**

3           **Q.** But did you explain to your client, Josue Perez Mercado,  
4           that he had the right to have a public trial, and that  
5           included having his family present here in the courtroom?

6           **A.** No, I did not.

7           **Q.** You were not into the details of his rights?

8           **A.** Not at all.

9           **Q.** And did you inform him that he had the right to request  
10          that from the Court even though it was the practice?

11          **A.** No, I did not.

12          **Q.** And you mentioned that that was the practice of this  
13          court. You mentioned this courtroom or the district, all  
14          together?

15          **A.** The district, since we were in Old San Juan.

16          **Q.** So you mentioned that during all the trials that you have  
17          tried through all these years, you've never requested from any  
18          judge to have the family members brought inside the courtroom;  
19          is that your testimony?

20          **A.** Yes, that's correct, I have not.

21          **Q.** And you never have requested from the Court to let members  
22          of the public to go inside a courtroom during voir dire; is  
23          that your testimony?

24          **A.** That's my testimony.

25          **Q.** You are aware of the rulings of the First Circuit in the

MIRIAM RAMOS - (CROSS BY MS. CASTELLON)

1 Owens case, correct?

2 A. Which year was that case?

3 THE COURT: 2007.

4 BY MS. CASTELLON:

5 Q. The year 2007.

6 A. No, I do not recall.

7 Q. Do you know that as part of your responsibilities as an  
8 officer of this court, as an attorney, that you have to be  
9 aware of the decisions that are the ones that are ruling in  
10 this district and the Supreme Court?

11 MR. FERNANDEZ: Your Honor --

12 A. Yes.

13 MR. FERNANDEZ: Your Honor, I object to this line of  
14 questioning. First of all, it was not brought forth in  
15 direct. And second, I feel that the witness is being  
16 badgered.

17 THE COURT: Well, no, wait a minute, wait a minute.  
18 There is testimony -- there has been testimony here about the  
19 practice of this district.

20 MR. FERNANDEZ: Yes.

21 THE COURT: And I think what Ms. Castellon is getting  
22 at is that since 2007, the First Circuit has indicated that --  
23 well, I'll read from the Braulio Agosto case.

24 It says, "In Owens, we similarly stressed that closure  
25 may be justified only by an overriding interest based on

MIRIAM RAMOS - (CROSS BY MS. CASTELLON)

1 findings that closure is essential to preserve higher values  
2 and is narrowly tailored to serve that interest, and held, in  
3 Owens, that a Court must consider and reject alternatives to  
4 closure before barring public access."

5 So I think what Ms. Castellon is getting at, is that  
6 the fact that this case existed -- and, indeed, there is some  
7 1984 cases from the Supreme Court that could be, and certainly  
8 were, cited with authority in the Presley case -- which, by the  
9 way, came down on January 19, 2010.

10 **MR. FERNANDEZ:** Yes, Your Honor.

11 **THE COURT:** I think what she's getting at, even  
12 though this may have been the practice in the district, there  
13 is a Constitutional issue here that the Supreme Court may have  
14 decided since 1984 and that the Circuit has certainly decided  
15 in 2007. I think that's what she's getting at.

16 **MR. FERNANDEZ:** And I certainly don't object to my  
17 sister, my sister's question in that respect.

18 What I'm saying is, counsel --

19 **THE COURT:** Ramos.

20 **MR. FERNANDEZ:** -- counsel Ramos, I'm sorry, already  
21 said that she didn't know Owens, and there is no need to  
22 badger her any more.

23 **THE COURT:** In that sense, yes, I will sustain the  
24 objection.

25 **MR. FERNANDEZ:** Thank you.

MIRIAM RAMOS - (CROSS BY MS. CASTELLON)

1 **BY MS. CASTELLON:**

2 **Q.** Counselor Ramos, you mentioned -- you understand that it  
3 was your duty to object if there was a closing or a closure of  
4 a trial or the courtroom in this case, correct?

5 **A.** You have asked me that, yes.

6 **Q.** It was your duty?

7 **A.** Yes.

8 **Q.** And it was your duty as well to notify the Court the fact  
9 that pieces of paper were blocking the view from the  
10 courtroom?

11 **A.** Yes. And I think it was also your duty to inform the  
12 Court --

13 **THE COURT:** Well, let's not argue. There is a  
14 question pending. Just answer the question, Ms. Ramos.

15 **THE WITNESS:** Yes.

16 **BY MS. CASTELLON:**

17 **Q.** And it's your testimony that it happened and you didn't  
18 object?

19 **A.** That's correct. You have asked me that several times and  
20 I said, "That's correct."

21 **THE COURT:** Let's not argue, please.

22 **BY MS. CASTELLON:**

23 **Q.** Counselor, you provided a sworn statement to  
24 Counselor Fernandez regarding this incident, correct?

25 **A.** Yes.

MIRIAM RAMOS - (CROSS BY MS. CASTELLON)

1 Q. And you mentioned, under the penalty of perjury, that on  
2 January 20, 2010, the court security officers did not allow  
3 family members to the public to be present in the courtroom?

4 A. That's correct.

5 Q. But you were not specific as to which person did not allow  
6 the Defendant's family --

7 A. I'm sorry?

8 Q. You did not provide the name of that person?

9 A. No. I was not asked. I was just asked about what  
10 transpired, and I was very brief and I stated in short words  
11 what has happened.

12 Q. Who was the person?

13 A. The person, Carla, the sister of my --

14 Q. No, who was the person that you stated that did not allow  
15 your client's relatives not to go in?

16 A. The persons were the security officer, but I cannot tell  
17 you if it was the one that was appointed here or who it was,  
18 but the practice is that the security officer do not allow --

19 Q. I'm not asking you the practice, Counselor.

20 THE COURT: She said she doesn't know. Somebody,  
21 whether it's the security officer or one of the deputy  
22 marshals, did it. She doesn't know who.

23 BY MS. CASTELLON:

24 Q. And it's your testimony, since it was standard procedure,  
25 that you did not object; that's your testimony?

MIRIAM RAMOS - (CROSS BY MS. CASTELLON)

1 A. Yes.

2 Q. And do you understand that is effective assistance of  
3 counsel?

4 A. The Court will determine that.

5 MR. FERNANDEZ: Objection, Your Honor.

6 THE COURT: Sustained.

7 Any redirect, Mr. Fernandez?

8 REDIRECT EXAMINATION

9 BY MR. FERNANDEZ:

10 Q. Madam, were any family members present during voir dire?

11 A. Yes, the sister was present outside, outside, in the hall.

12 THE COURT: Inside the courtroom.

13 THE WITNESS: Inside the courtroom, no, sir.

14 MR. FERNANDEZ: Thank you, ma'am.

15 THE COURT: Thank you very much, Ms. Ramos. You're  
16 excused.

17 THE WITNESS: Good morning.

18 THE COURT: Next witness, please.

19 MR. HERNANDEZ: For the record, this is Attorney  
20 Hernandez. The next witness would be Alexander Zeno.

21 THE COURT: Mr. Zeno.

22 THE CLERK: Raise your right hand, please.

23 ALEXANDER ZENO,

24 after having first been duly sworn to state the truth, the  
25 whole truth and nothing but the truth, testified as follows:

MIRIAM RAMOS - (REDIRECT)

1           **MR. HERNANDEZ:** May it please the Court?

2           **THE COURT:** You may proceed, Mr. Hernandez.

3           **MR. HERNANDEZ:** Thank you, Your Honor.

4                               DIRECT EXAMINATION

5   **BY MR. HERNANDEZ:**

6   **Q.** Good afternoon, sir.

7   **A.** Good afternoon.

8   **Q.** May you state your name for the record.

9   **A.** Alexander Zeno.

10   **Q.** Can you state your profession.

11   **A.** I'm an attorney.

12   **Q.** You are an attorney. Since when?

13   **A.** Nineteen -- January 1997.

14   **Q.** Have you been admitted to this court?

15   **A.** Yes, sir.

16   **Q.** When?

17   **A.** When? It was in 1997, I don't remember if it was August  
18 or September, around that date.

19   **Q.** And you practiced in this court since then?

20   **A.** Yes, sir.

21   **Q.** Can you tell us, more or less, how many trials have you --

22   **A.** I've been practicing in this district for about 10

23 years -- well, as a criminal defense attorney in this

24 district, I have been practicing for about 10 years, and in

25 that period I have had two jury trials.

ALEXANDER ZENO - (DIRECT BY MR. HERNANDEZ)

1 Q. And were you part of the Criminal Justice Act panel in  
2 this --

3 A. Yes, sir.

4 Q. -- district, or were you not?

5 You were?

6 A. I was until -- I don't remember, I believe it was 2007,  
7 2008.

8 Q. Did you participated in this case, 08-310?

9 A. Yes, sir.

10 Q. How did you participated?

11 A. I was the lead attorney for Mr. Ramon Maysonet Soler.

12 Q. I'm going to direct your attention to the jury selection  
13 process.

14 Do you recall what happened during the jury selection  
15 process?

16 A. Well, most of it.

17 Q. Were the family members of Mr. Maysonet able to come into  
18 the courtroom during the jury selection process?

19 A. I don't remember seeing them inside the courtroom.

20 **THE COURT:** During the jury selection process.

21 **THE WITNESS:** Correct.

22 **BY MR. HERNANDEZ:**

23 Q. Did you have any conversation with either Mr. Maysonet or  
24 his family members concerning their ability to get into the  
25 courtroom?

ALEXANDER ZENO - (DIRECT BY MR. HERNANDEZ)

1 A. Not that date.

2 Q. You didn't have one?

3 A. Well, because we did have conversations as to  
4 Mr. Maysonet's wife, but not with the jury selection, that's  
5 what I'm trying to say.

6 Later on, there were some incidents that provoked that  
7 type of discussion. But as to jury selection, we did not have  
8 any type of discussion as to whether or not they had the right  
9 or not to come into the courtroom.

10 Q. Did any of them request --

11 THE COURT: Wait a minute. Wait a minute. Let me  
12 clear something up here, Mr. Zeno.

13 These are conversations with Mr. Maysonet's family?

14 THE WITNESS: With his wife.

15 THE COURT: With his wife. What about with  
16 Mr. Maysonet himself?

17 THE WITNESS: I don't remember ever having a  
18 discussion with him as to that. When I say "his family," I  
19 don't mean during jury selection. After jury selection, there  
20 were some instance --

21 THE COURT: We're talking about jury selection.

22 THE WITNESS: All right.

23 THE COURT: You did not -- or you don't recall having  
24 any conversation with Mr. Maysonet's wife?

25 THE WITNESS: No.

ALEXANDER ZENO - (DIRECT BY MR. HERNANDEZ)

1           **THE COURT:** Or with Mr. Maysonet himself?

2           **THE WITNESS:** I don't remember with anybody having a  
3 conversation as to that.

4 **BY MR. HERNANDEZ:**

5 **Q.** Sir, you got here -- the day jury selection took place,  
6 you got here at what time?

7 **A.** I don't remember, but I guess -- I assume it was around 8  
8 in the morning.

9 **Q.** And what happened after 8 in the morning in order for the  
10 process to start, if you recall?

11 **A.** Well, are you talking --

12 **Q.** You came down, you went to --

13 **A.** The 19th or the 20th? Because the trial was supposed to  
14 start on the 19th --

15 **Q.** Correct.

16 **A.** -- and it started on the 20th.

17 **Q.** Okay. I'm talking about the 20th.

18 **A.** The 20th. I don't remember exactly what happened, but I  
19 can infer that I got here early and I came into the courtroom  
20 to do my job.

21 **Q.** And before getting into the courtroom to do your job, did  
22 you talk to the family members, Mr. Maysonet's family members,  
23 either his wife or any of them?

24 **A.** I don't remember talking to them. I assume that I did  
25 because I used to talk to them all the time.

ALEXANDER ZENO - (DIRECT BY MR. HERNANDEZ)

1 Q. Very good. You assume that you did?

2 A. I assume that I did.

3 Q. As far as you're concerned, during the jury selection  
4 process, was there any family member whatsoever, be it Ramon  
5 Maysonet's family or any other Defendant's family, inside the  
6 courtroom during jury selection?

7 A. I'm sorry, the first part of the question?

8 Q. As far as you being present during jury selection, was  
9 there any member of any of the families of the codefendants  
10 inside the courtroom during jury selection?

11 A. I don't remember seeing any of them.

12 Q. And at that point in time, was it the usual practice  
13 within this court to have family members during that process  
14 inside?

15 A. At that time, it was my understanding that nobody from the  
16 public could come into the courtroom.

17 Q. Why was that your understanding, sir?

18 A. Well, I can tell you that when I was trying to get into  
19 the CJA panel, they have this thing, I don't remember what  
20 they call it, the Mentoring Program, or whatever, I remember  
21 trying to see the jury selection process with Judge Fuste,  
22 because he was about to start a trial and they were doing jury  
23 selection. And I actually did go with Ms. -- Attorney  
24 Sandoval, which she was mentoring me, and she asked  
25 Judge Fuste if I could watch the proceedings, the jury

ALEXANDER ZENO - (DIRECT BY MR. HERNANDEZ)

1 selection. And she told me that he said no, that I could not  
2 stay inside the courtroom.

3 So that made me believe that the public is not welcome  
4 during the jury selection process.

5 Q. Very well, sir. During the jury selection process in this  
6 case, January 20th, do you recall if there was anything placed  
7 on the doors of the courtroom?

8 A. That, I don't remember.

9 Q. You don't remember.

10 Do you recall if every one from the public was coming in  
11 or out in the jury selection process?

12 A. I don't remember anybody coming in or out.

13 Q. Do you recall -- can you tell us what happened when each  
14 of the prospective jurors or the proposed jurors were  
15 dismissed, what happened then?

16 A. I don't remember exactly, but I think as they were being  
17 dismissed, they were allowed to leave.

18 Q. Allowed to leave?

19 A. You're talking about those jurors that were not selected?

20 Q. Yes.

21 A. Yes, I think they were allowed to leave.

22 Q. So they were going out?

23 A. Going out, correct.

24 Q. Did you saw if, at the time that they were going out,  
25 somebody was coming in?

ALEXANDER ZENO - (DIRECT BY MR. HERNANDEZ)

1 A. I don't remember that.

2 Q. Very well.

3 As to Mr. Maysonet, you just said that you had no  
4 conversation with him concerning access by the public during  
5 jury selection, to the courtroom; is that right?

6 A. That's right.

7 Q. And I'm going to ask you, did you object or brought to the  
8 Court's attention the fact that they were not letting family  
9 members in the courtroom?

10 A. Not during the jury selection.

11 Q. Not during the jury selection?

12 A. No.

13 Q. So at that point in time you did not raise it as an issue?

14 A. No, I never did.

15 Q. Why not?

16 A. Because it was my understanding that the public was not  
17 allowed during jury selection, and I always assumed that the  
18 reason for that was that the court was full of jurors, so  
19 there was no space for them. So that was my understanding.

20 Plus, I had so many other things in my mind at that time,  
21 I was so busy thinking about other things that, you know ...

22 Q. So then it would be fair to say that it was no tactical  
23 decision whatsoever?

24 A. No tactical, strategic decision as to that.

25 MR. HERNANDEZ: Very well. No further questions.

ALEXANDER ZENO - (DIRECT BY MR. HERNANDEZ)

1                   **THE COURT:** Cross examination.

2                                   CROSS EXAMINATION

3 **BY MS. CASTELLON:**

4 **Q.** Was the courtroom locked?

5                   **THE COURT:** During jury selection?

6 **BY MS. CASTELLON:**

7 **Q.** During jury selection?

8 **A.** I don't know that for sure, but I can tell you when I  
9 tried to enter the courtroom, it was not locked, because I  
10 could get in, I managed to get in.

11 **Q.** You got in, and it wasn't locked?

12 **A.** I assume that it wasn't.

13 **Q.** And you mentioned that -- you recall if there was a court  
14 security officer in this courtroom?

15 **A.** Not that day, I don't remember. I know during the trial  
16 there was, but I don't remember that day if there was.

17 **Q.** And it's your testimony today that you did not discuss  
18 with your client and his wife regarding that they wanted to be  
19 present here in the courtroom?

20 **A.** During jury selection?

21 **Q.** That day, January 20, 2010.

22 **A.** I don't remember discussing anything with them as to that.

23 **Q.** Do you recall that she addressed your attention and she  
24 asked you why she was not let in?

25 **A.** I don't remember she ever asking me that that day.

ALEXANDER ZENO - (CROSS BY MS. CASTELLON)

1 Q. When you say "that day," do you recall when she asked you  
2 about it?

3 A. I don't know if it was the next day, a few days after  
4 that, there was an incident in the courtroom where --

5 Q. That was not related to the jury selection?

6 A. No, that was not related to jury selection.

7 Q. So you did not object, it's your testimony, regarding the  
8 fact that people were not let in?

9 A. No, I never objected.

10 Q. Sir, are you aware of the decision in Owens versus  
11 United States, First Circuit case from this district?

12 A. I'm not aware of that decision.

13 THE COURT: Not from this district.

14 BY MS. CASTELLON:

15 Q. From the First Circuit, I'm sorry.

16 A. What's the name of the decision?

17 Q. Owens versus United States.

18 A. If I'm aware today or that day?

19 THE COURT: Actually, that day.

20 THE WITNESS: That day, no, I wasn't aware of that.

21 MS. CASTELLON: I have no further questions.

22 THE COURT: Any redirect?

23 MR. HERNANDEZ: Just one question.

24

25

ALEXANDER ZENO - (REDIRECT)

1                                    REDIRECT EXAMINATION

2    **BY MR. HERNANDEZ:**

3    **Q.** Sister counsel asked you that -- whether you had  
4    discussions with Mr. Maysonet or his wife concerning the  
5    ability of the family members to come in, but I want to just  
6    be clear. Do you recall or don't you recall whether they even  
7    asked you, "we want to go in"; not a discussion, but whether  
8    she asked you, "I want to go in"?

9    **A.** You're talking about the day the jury was selected?

10   **Q.** I'm saying prior to jury selection, the day the jury was  
11   selected, the question is whether she approached even to go in  
12   and asked you whether she could go in or not, that's the  
13   question.

14   **A.** Before the jury selection and during jury selection, she  
15   never asked me whether or not -- well, I don't remember her  
16   asking me whether or not she could come in.

17                    **MR. HERNANDEZ:** Okay, thank you.

18                    **THE COURT:** Thank you very much.

19                    **THE WITNESS:** Thank you, Your Honor.

20                    **THE COURT:** You're excused.

21                    Next witness, please.

22                    **MR. FERNANDEZ:** Ramon Garay, Your Honor.

23                    **THE CLERK:** Raise your right hand, please.

24                                    RAMON GARAY MEDINA,

25    after having first been duly sworn to state the truth, the

ALEXANDER ZENO - (REDIRECT)

1 whole truth and nothing but the truth, testified as follows.

2 DIRECT EXAMINATION

3 **BY MR. FERNANDEZ:**

4 **Q.** Good morning, sir.

5 **A.** Good morning.

6 **Q.** Pleasure to see you again.

7 **THE COURT:** Mr. Garay, would you please talk into the  
8 microphone.

9 **THE WITNESS:** Yes, Your Honor.

10 **THE COURT:** Thank you.

11 **BY MR. FERNANDEZ:**

12 **Q.** State your name for the record, please.

13 **A.** Ramon Luis Garay Medina.

14 **Q.** What is your profession, sir?

15 **A.** Attorney at law.

16 **Q.** Since when have you been an attorney?

17 **A.** 1980.

18 **Q.** Are you admitted in this district?

19 **A.** That's correct.

20 **Q.** Since when have you been admitted to this district?

21 **A.** I believe close to 1989, something like that.

22 **Q.** Since that time, could you tell me a rough estimate of how  
23 many jury trials have you tried up until today?

24 **A.** An exact number, I cannot give you, maybe close to 10 to  
25 15.

RAMON GARAY - (DIRECT BY MR. FERNANDEZ)

1 Q. Between 10 and 15?

2 A. Yes.

3 Q. Were you involved in this case, 08-310?

4 A. That's correct.

5 Q. In what capacity?

6 A. Attorney for Jose Negrón Sostre.

7 Q. Sir, if I might direct your attention to January 20th of  
8 2010, that was the day of voir dire.

9 Could you tell us what happened during voir dire, just  
10 give us a general overview?

11 A. After discussions of several matters, the process of jury  
12 selection started.

13 Q. Do you remember who was sitting in the courtroom, where  
14 were the Defendants sitting?

15 A. Potential jury members --

16 Q. Let's start, where were the Defendants sitting?

17 A. The Defendants were in the row behind the attorneys.

18 Q. Where they are sitting now?

19 A. More or less, I believe so, that day.

20 Q. Anybody sitting behind them?

21 A. The marshals, U.S. Marshals.

22 Q. And how about the potential jurors, where were they?

23 A. Potential jurors, I believe, were on the other side of the  
24 courtroom.

25 Q. Do you recall, sir, if family members were inside the

RAMON GARAY - (DIRECT BY MR. FERNANDEZ)

1 court, inside the courtroom during voir dire?

2 A. No, they were not.

3 Q. Why not?

4 A. Well, it was informed by security officers that the  
5 members of the family were not allowed in the courtroom during  
6 jury selection.

7 Q. Did that person inform you?

8 A. It was a matter of general information. Yes, it was  
9 informed to me also, as part of the attorneys of record.

10 Q. Do you remember who it was?

11 A. I believe it was Mr. Sierra, who is the court security  
12 officer.

13 Q. Did you raise the matter with your client?

14 A. I did not discuss that particular matter with my client  
15 because this is a practice in this courtroom for many years  
16 and it has been done like that.

17 Q. In your 10 or 15 trials that you have tried, do you recall  
18 if, in any of them, family members were allowed into the  
19 courtroom during voir dire?

20 A. Most likely, my memory tells me they were not.

21 Q. Did you raise the matter with any marshal, court security  
22 officer, to make arrangements to allow the family in?

23 A. I may have on one particular occasion, very particular  
24 matter.

25 Q. No, I mean in this case.

RAMON GARAY - (DIRECT BY MR. FERNANDEZ)

1 A. No, in this case, no.

2 Q. Sir, how long did the voir dire take?

3 THE COURT: Wait a minute.

4 MR. FERNANDEZ: I'm sorry, Your Honor.

5 THE COURT: Excuse me.

6 MR. FERNANDEZ: Yes, I'm sorry.

7 THE COURT: Did you raise the issue with the Court?

8 THE WITNESS: No.

9 BY MR. FERNANDEZ:

10 Q. No objection was made?

11 A. No objection was made to the Court.

12 Q. How long did voir dire take?

13 A. I believe it took the whole 20th.

14 Q. Do you remember anything about the doors, anything special  
15 about the doors during that day?

16 A. I remember they were closed; not more than that.

17 THE COURT: When you mean "closed," you mean locked?

18 THE WITNESS: I believe they were locked.

19 BY MR. FERNANDEZ:

20 Q. And who was letting -- what would happen when a potential  
21 juror was dismissed; what is your recollection?

22 A. The marshal -- one of the marshals would escort that  
23 person outside of the courtroom.

24 Q. And he would open and close?

25 A. I believe so. I believe there was one particular marshal

RAMON GARAY - (DIRECT BY MR. FERNANDEZ)

1 close to the doors.

2 Q. Do you remember who it was?

3 A. No, I can't tell you that.

4 MR. FERNANDEZ: Nothing further, Your Honor.

5 THE COURT: Cross examination. Mr. Henwood.

6 MR. RIVERA: Your Honor, can we have a second?

7 THE COURT: Yes, of course.

8 MR. FERNANDEZ: Go ahead, please.

9 CROSS EXAMINATION

10 BY MR. HENWOOD:

11 Q. Sir, you're aware of your client's right to a public  
12 trial, correct?

13 A. That's correct, sir.

14 Q. And you knew, based on your experience as an attorney  
15 litigating in this jurisdiction for -- I believe you said  
16 since 1980, that the Sixth Amendment guarantees your client's  
17 right to a public trial; correct?

18 A. That's correct.

19 Q. And there had been case law from 1984, 2007, First Circuit  
20 case law, specifically a case called Owens, in 2007, which  
21 stood for the proposition that the jury selection was part of  
22 the trial and there was a public right for participation and  
23 entry by members of the public during jury selection, correct?

24 A. Yes.

25 Q. But yet, you chose --

RAMON GARAY - (CROSS BY MR. HENWOOD)

1           **THE COURT:** Excuse me. Are you saying that you were  
2 aware of this Owens case?

3           **THE WITNESS:** I was aware of some of the  
4 jurisprudence.

5 **BY MR. HENWOOD:**

6 **Q.** But you chose, as a tactical matter or based -- you  
7 choose, as a tactical matter, not to raise that with the Court  
8 on that particular case, on that particular date?

9 **A.** No, that's not correct.

10 **Q.** Why didn't you raise it if the case law stated --

11 **A.** The problem is your question is if it was a tactical  
12 matter.

13           **THE COURT:** That, you answered "no".

14           The next question is: Why did you not raise it?

15           **THE WITNESS:** I did not raise the issue because it  
16 was the practice in this district not to allow the family  
17 members during jury selection.

18 **BY MR. HENWOOD:**

19 **Q.** And do you know why it was a practice in this district,  
20 based on your experience here, not to allow the family members  
21 inside during jury selection?

22 **A.** Basically, the information provided during jury selection  
23 by the court security officer is the problem with the  
24 courtroom, lack of space, some of the reasons.

25 **Q.** A lack of space, in that it is also customary in this

RAMON GARAY - (CROSS BY MR. HENWOOD)

1 jurisdiction for all the venire members to be allowed into the  
2 courtroom at one time so we can more efficiently question them  
3 and select the jury; correct?

4 **A.** Yes.

5 **Q.** So the courtroom was then full with defendants, marshals,  
6 and the potential jurors, correct?

7 **A.** Yes.

8 **Q.** Now, you mentioned that you believe the doors were locked;  
9 is that correct?

10 **A.** Yes.

11 **Q.** Now, were they locked throughout the entire process,  
12 according to your recollection?

13 **A.** That, I cannot tell you exactly. I know they were open  
14 for the second day of trial, but I cannot exactly tell you if  
15 they were open during the jury selection to allow persons  
16 going out.

17 **Q.** Are you aware as to whether or not the fact that the doors  
18 were closed was mentioned during the jury selection at all by  
19 anyone?

20 **A.** No, I don't remember that.

21 **Q.** You don't remember?

22 **MR. HENWOOD:** Judge, can I have --

23 **THE COURT:** Did you mention it?

24 **THE WITNESS:** No, I did not.

25 **MR. HENWOOD:** Judge, can I have the overhead

RAMON GARAY - (CROSS BY MR. HENWOOD)

1 projector turned on?

2 **BY MR. HENWOOD:**

3 **Q.** This is the transcript from the jury selection which took  
4 place on January 20, 2010. And I'm going to be referring to  
5 just one page of it. This isn't the page, but I want to show  
6 you that at Page 62, up here, we have the Judge off the bench  
7 at one; a lunch break is taken from 1 until 2:48, at which  
8 time the proceedings continue as follows.

9 And then Judge Besosa comes out and says, "Good afternoon.  
10 Please be seated."

11 You were here during those proceedings, Mr. Garay?

12 **A.** Yes.

13 **Q.** And you recall participating, representing your client  
14 during those proceedings, correct?

15 **A.** Yes.

16 **Q.** And you've been testifying about that today under oath,  
17 correct?

18 **A.** Yes.

19 **Q.** Now, I'm going to turn to Page 80. And we have the Judge,  
20 there's a discussion and you're in the middle of questioning a  
21 potential juror, and the Court says, "Well, there will be  
22 testimony in here about the use of weapons, do you think that  
23 there will be" --

24 And the juror says: "It might."

25 Mario Torres Marin says, "May I? If the Judge asks you to

RAMON GARAY - (CROSS BY MR. HENWOOD)

1 base your decision just based on the evidence presented to  
2 you, can you be -- can you make your decision based on the  
3 evidence alone?

4 "THE JUROR: I don't know to -- if I  
5 should answer that question without  
6 present certain.

7 "THE COURT: Well, you're excused,  
8 Mr. Serra."

9 I think that's Mr. Sierra.

10 **THE COURT:** That's the juror's name.

11 **MR. HENWOOD:** Oh, Serra is the name. That's the  
12 juror's name, correct.

13 **BY MR. HENWOOD:**

14 **Q.** Then we have you, Mr. Garay, "Your Honor, we have noticed  
15 that during your questioning, sometimes we see jurors entering  
16 and going out, and we don't know if they had heard your  
17 questions or not."

18 The Judge says, "I'll ask a general question."

19 "MS. CASTELLON: Or maybe not to leave the courtroom."

20 And then you say: "Or seal the room."

21 You see that?

22 **A.** Yes, I see it.

23 **Q.** So this is in the afternoon during this jury selection.

24 You're pointing out, for the record, that people are going in  
25 and out, and you make a suggestion to the Judge that the room

RAMON GARAY - (CROSS BY MR. HENWOOD)

1 be sealed; isn't that correct?

2 **A.** Yes, the issue was that some of the potential jurors stood  
3 up and would go out of the courtroom one minute or two  
4 minutes. If someone opened the door for them or they were  
5 able to come out as they pleased, I don't remember that.

6 **Q.** But it's clear that any mention of sealing, or the mention  
7 of sealing that we pointed to there, was raised by you,  
8 correct?

9 **A.** Yes, due to the fact that they were going in and out. If  
10 the doors were closed or not at that particular point, that  
11 was the issue raised to the Court.

12 **Q.** And that was in the middle of the jury selection in the  
13 afternoon, correct?

14 **A.** That's during the jury selection.

15 **MR. HENWOOD:** Nothing further, Your Honor.

16 **THE COURT:** Any redirect?

17 **MR. FERNANDEZ:** No, Your Honor.

18 **THE COURT:** Thank you, Mr. Garay. You're excused.  
19 Next witness. Mr. Rivera.

20 **MR. RIVERA:** Mariangela Tirado.

21 **THE COURT:** Before Ms. Tirado comes in, how many  
22 witnesses do you have left?

23 **MR. RIVERA:** I think that would be the end for us in  
24 terms of witnesses.

25 **THE COURT:** Are you going to call any of the

1 deputies?

2 **MR. RIVERA:** I don't think so.

3 **MR. FERNANDEZ:** No, Your Honor.

4 **THE COURT:** Why don't we do this, after Ms. Tirado's  
5 testimony, we will take a lunch break.

6 **THE CLERK:** Raise your right hand, please.

7 MARIANGELA TIRADO VALES,

8 after having first been duly sworn to state the truth, the  
9 whole truth and nothing but the truth, testified as follows:

10 DIRECT EXAMINATION

11 **BY MR. RIVERA:**

12 **Q.** Good afternoon, Ms. Tirado.

13 **A.** Good afternoon.

14 **Q.** Could you please give us your complete name, please.

15 **A.** Mariangela Tirado Vales.

16 **Q.** And what do you do for a living?

17 **A.** I am an attorney.

18 **Q.** What kind of attorney?

19 **A.** I have a general practice, but I have -- part of my -- big  
20 part of my practice is as a CJA attorney in this court.

21 **Q.** And that's criminal?

22 **A.** Yes.

23 **Q.** How long have you been practicing in this district?

24 **A.** My first case, assigned case, was in August 1989.

25 **Q.** How many criminal trials have you seen?

MARIANGELA TIRADO - (DIRECT BY MR. RIVERA)

1 A. Criminal trials in full, around -- could be 8 to 10.

2 Q. Now, taking your attention to January 20th of 2010, were  
3 you at trial that day?

4 A. Yes, I was at trial with Judge Besosa in Criminal 80-310,  
5 and I was representing Luis Rodriguez Sostre, I was his  
6 appointed attorney.

7 Q. Now, that day, we had -- I'm sorry. There was the jury  
8 selection that day; wasn't it?

9 A. Yes, yes.

10 Q. Do you remember how that process took place?

11 A. Well, my recollection of that process is, it has been, as  
12 the usual process in this court, all the jurors were inside  
13 the court, the Defendants were inside the court, and family  
14 members were kept outside, they were not permitted into the  
15 court.

16 Q. Now, the sitting arrangement that day with the Defendants,  
17 would it be basically what we have today, the Defendants and  
18 then the marshals behind?

19 A. Yes, yes.

20 Q. And prospective jurors would have been on that side of the  
21 room?

22 A. I don't recall if they were behind the prosecutor's desk  
23 or if they were also behind the prosecutors and there were  
24 some behind the defense and some in the jury box, I don't --  
25 but it was a full room.

MARIANGELA TIRADO - (DIRECT BY MR. RIVERA)

1 Q. But do you remember -- do you have any idea about how many  
2 jurors were there that day?

3 A. I don't remember that.

4 Q. More than 50?

5 A. There were more than 50, yes.

6 Q. Less than a hundred?

7 A. Yes.

8 Q. Now, you mentioned before that you had seen between 8 to 9  
9 trials. Okay.

10 A. Yes, more or less.

11 Q. The jury selection process of those trials, was any  
12 different from the jury selection that took place on  
13 January 10 -- on 08-310?

14 A. No, in the sense that in all the jury selections in  
15 criminal cases that I have had so far in this court, family  
16 members and public is not permitted into the court while the  
17 jury selection is going on.

18 Q. Now, going back to January 20, were you aware that family  
19 members of the Defendants were not allowed in the jury room  
20 that day?

21 A. Yes, I know that they were outside. They were not inside  
22 the jury selection.

23 Q. But did anybody tell you, "Ms. Tirado, I'm out here, I  
24 want to be inside"? For example, Mr. Omar's family, Rodriguez  
25 Sostre?

MARIANGELA TIRADO - (DIRECT BY MR. RIVERA)

1           **THE COURT:** Mr. Rodriguez Sostre.

2           **THE WITNESS:** I don't recall having that specific  
3 communication. I do know that at some point family members  
4 tried to come in and they were not allowed, but I don't recall  
5 that his family, specifically, we had that conversation.

6 **BY MR. RIVERA:**

7 **Q.** That day at any time did you have any discussions with  
8 Mr. Rodriguez Sostre about his right of having the family  
9 inside the courtroom?

10 **A.** No, I did not, because that was the standard operating  
11 procedure. And for me, it was a non-issue. For me, I didn't  
12 really, you know, it was the procedure of the Court and I did  
13 not understand that I had to speak about that with him or to  
14 explain to him anything. So I did not talk about that matter.

15 **Q.** Had he asked you the question, what explanation would you  
16 have given him?

17 **A.** Well, that that was the procedure in this court and that  
18 no one was allowed, and that was, you know, that was the  
19 standard operating procedure, family members would have to  
20 stay outside while the jury selection is going on.

21           **MR. RIVERA:** No further questions, Your Honor.

22           **THE COURT:** Cross examination.

23                               CROSS EXAMINATION

24 **BY MS. CASTELLON:**

25 **Q.** Counselor, you stated that you have been a member of this

MARIANGELA TIRADO - (CROSS BY MS. CASTELLON)

1 district from 1989?

2 **A.** That's correct.

3 **Q.** Do you consider -- you're a part of the CJA panel, as you  
4 stated?

5 **A.** Yes.

6 **Q.** Do you consider yourself a competent attorney?

7 **A.** I understand I am.

8 **Q.** You are?

9 **A.** I understand so.

10 **Q.** You are aware of the Sixth Amendment right?

11 **A.** Of course, but I didn't explain that to my client that  
12 day; or the other trials, I haven't explained. And I'm an  
13 officer of the court and that has not been an issue.

14 **Q.** I'm asking you, are you aware of the Sixth Amendment right  
15 of your client?

16 **THE COURT:** Well, wait a minute, the right to a  
17 public trial.

18 **MS. CASTELLON:** The right to a public trial.

19 **THE WITNESS:** I am aware of that right, but I have  
20 not explained that to this defendant or to any other of my  
21 clients, because, as the procedure of this court is, and as an  
22 officer of the court -- and you are an officer of the court --  
23 we all know that the procedure was keeping people outside.

24 **BY MS. CASTELLON:**

25 **Q.** I'm not asking about myself.

MARIANGELA TIRADO - (CROSS BY MS. CASTELLON)

1 I'm asking you, again, did you at any point explain to  
2 your client, Rodriguez Sostre, that he had the Constitutional  
3 right to have a public trial?

4 A. No, I did not.

5 Q. You did not.

6 And you were not told by any of the relatives on that day  
7 that they were not allowed to go inside the courtroom on that  
8 day; that's your testimony today?

9 A. I do not recall that any of his family members directly  
10 told me so. I do know that there was some argument about  
11 family members not being permitted to come into the court.

12 The court -- the court doors had some papers, there were  
13 marshals or court officers in the door and they would not  
14 permit any family members.

15 But, that I explained -- if you're asking me whether I  
16 explained to my client his right to a public trial and whether  
17 he waived it, my answer is no.

18 Q. And let me ask you this, since you're a member of this  
19 district since 1989, can you tell this Court who were those  
20 security officers posted in the door entrance?

21 A. No, I cannot, but I believe there is a roster. And you  
22 were here. So I don't know. I don't know --

23 Q. But I'm asking you.

24 A. No, I don't know.

25 THE COURT: Let's not argue.

MARIANGELA TIRADO - (CROSS BY MS. CASTELLON)

1           The question is whether you know, and she doesn't.  
2   That's it.

3           **THE WITNESS:** I know Mr. Sierra was here, I do know  
4   that. And I -- there are -- I don't know the names, even  
5   though I have been here for quite a while, I don't know all  
6   the names, but I have seen familiar faces which were in the  
7   trial. But what day, if they were on the 20th, that day, I  
8   cannot say.

9           I do know that no one -- no family members were  
10   allowed.

11   **BY MS. CASTELLON:**

12   **Q.** So it is your testimony today that you were aware, you  
13   were made aware of the fact that some family members of other  
14   Defendants were not allowed to go in; is that your testimony?

15   **A.** At a point in time, I heard that, yes.

16   **Q.** On that day?

17   **A.** Counselor, I'm under oath, and if I tell you if it's on  
18   that date or it was after --

19           **THE COURT:** If you don't remember, you don't  
20   remember.

21           **THE WITNESS:** I don't remember. I don't remember.  
22   But I did not discuss it with my client either.

23   **BY MS. CASTELLON:**

24   **Q.** You submitted a sworn statement that is part of the record  
25   on document 3676-1, correct?

MARIANGELA TIRADO - (CROSS BY MS. CASTELLON)

1 **A.** I know I submitted a sworn statement. I don't know the  
2 docket number.

3 **Q.** You were the one who drafted it, wrote it, and gave it to  
4 the attorney?

5 **A.** I know I submitted a document. I don't have it in front  
6 of me, but I know I submitted a sworn statement where I say  
7 that, basically, the standard operating procedure of this  
8 district is what I just testified about, no family members  
9 were allowed while jury selection was going on.

10 **Q.** And you mentioned that on that specific day, January 20th,  
11 2010, the court security officers did not allow the  
12 Defendants' family to go inside the courtroom?

13 **A.** That's correct.

14 **Q.** One last question. Were you aware at the time of the  
15 trial that you were representing Mr. Rodriguez Sostre, of the  
16 First Circuit decision in United States versus Owens case?

17 **A.** No, I was not.

18 **Q.** Are you aware, do you keep the practice of reading the  
19 jurisprudence that abides this district?

20 **A.** I try to keep myself abreast, and I, afterwards, or at a  
21 point in time I learned of the decision, but not at the time  
22 of the jury selection.

23 And, you know, I may have, you know, not protected my  
24 client's right as I should have.

25 **Q.** And you recall during the same voir dire making objections

MARIANGELA TIRADO - (CROSS BY MS. CASTELLON)

1 on behalf of other Defendants, other than your client, during  
2 jury selection?

3 **A.** At what time?

4 **Q.** During jury selection. You objected to and claimed rights  
5 of other Defendants because you stated that you five attorneys  
6 were representing the five Defendants in this case?

7 **A.** You know, I would have to read or review the transcript.  
8 I know that probably we raised a lot of issues during the  
9 trial, perhaps during the jury selection, but as to the right  
10 of my client of a public trial, I did not make any objection  
11 as to that. That was my bad.

12 **MS. CASTELLON:** No further questions.

13 **THE COURT:** Any redirect?

14 REDIRECT EXAMINATION

15 **BY MR. RIVERA:**

16 **Q.** Counsel Tirado, the fact that you did not address the  
17 issue about the family not being -- being excluded from the  
18 courtroom on the 20th, did that at any time fall within a  
19 strategic decision on your part?

20 **A.** No. Basically, it was -- how would I say -- I just didn't  
21 thought about it because that was the standard operating  
22 procedure in this court -- not in this particular court, in  
23 this district, so I just didn't thought that I need to raise  
24 it or to discuss it with my client or to do anything about it.

25 It was not even a strategy or nothing. It was something

MARIANGELA TIRADO - (REDIRECT)

1 that was done.

2 **Q.** So there is no objection on your part, on the record?

3 **A.** No, there is none.

4 **MR. RIVERA:** No more questions, Your Honor.

5 **THE COURT:** Thank you very much.

6 Ms. Tirado, you're excused.

7 **MR. FERNANDEZ:** Your Honor, could we approach one  
8 second?

9 **THE COURT:** Yes, of course.

10 (Whereupon the following proceedings took place at  
11 sidebar:)

12 **MR. FERNANDEZ:** Your Honor, you mentioned if we had  
13 another witness, I totally forgot about Paco Dolz.

14 **THE COURT:** Is he out there?

15 **MR. FERNANDEZ:** Yes, he's out there. But I think  
16 he's going to be repetitive.

17 **MS. CASTELLON:** I have a question for him.

18 **THE COURT:** Well, you can sit him, or do you want  
19 them to sit him?

20 **MR. HENWOOD:** I don't think we can make them sit him.

21 **THE COURT:** You can call him.

22 **MR. RIVERA:** Why don't we get the opportunity to  
23 discuss that issue again and then make a decision.

24 **THE COURT:** All right, fine.

25 Now, let me ask you this, as long as I have everybody

MARIANGELA TIRADO - (REDIRECT)

1 here present. Once the evidence is in, everybody, is that it?

2 I mean, you requested the Circuit to remand --

3 **MR. FERNANDEZ:** I did.

4 **THE COURT:** -- for me to be able to determine one way  
5 or the other. They haven't done so.

6 **MR. FERNANDEZ:** That's correct.

7 **THE COURT:** As a matter of fact, they called,  
8 somebody from the Circuit called the Clerk's office because of  
9 that --

10 **MR. FERNANDEZ:** Motion.

11 **THE COURT:** -- motion. And they were told that my  
12 Order said that the date that we were going to have this,  
13 today, was to allow the marshals to bring everybody in,  
14 because they were -- because not all of them were in the same  
15 place.

16 I just wanted to tell you that, because as of right  
17 now, all I think that I can do is get this other transcript and  
18 send it up to the Circuit.

19 **MR. FERNANDEZ:** You can certainly do that,  
20 Your Honor, but Your Honor could also make findings of fact.  
21 I think Your Honor has authority to do both.

22 **MS. MIZNER:** I think Rule 10(e) might require  
23 findings of facts by the district court to settle the issues.

24 **THE COURT:** Appellate Rule 10.

25 **MS. CASTELLON:** And I understand our office submitted

MARIANGELA TIRADO - (REDIRECT)

1 also a response.

2           **MR. FERNANDEZ:** The United States joined in part my  
3 motion. And I say "joined in part" because they wanted --  
4 they asked the First Circuit to remand the case, so they  
5 joined that.

6           But I went further in my motion. I asked the First  
7 Circuit not only to remand the case but to give Your Honor  
8 jurisdiction to provide the remedy, which Your Honor --

9           **THE COURT:** Findings of fact is different than  
10 providing a remedy.

11           **MS. CASTELLON:** And we opposed to that in our motion.  
12 You did it in the petition?

13           **MR. FERNANDEZ:** He said for the First Circuit to  
14 retain jurisdiction.

15           **MS. CASTELLON:** Yes.

16           **MR. FERNANDEZ:** That's what I meant, yeah.

17           **MS. CASTELLON:** So I understand.

18           **THE COURT:** Well, let's take our lunch break. Let's  
19 be back at 2, and then we'll have the Government present  
20 their --

21           **MS. CASTELLON:** And Paco Dolz.

22           **THE COURT:** You decide whether you are going to  
23 present Mr. Dolz.

24           **MR. RIVERA:** Thank you.

25           **THE COURT:** Let's take a lunch break. Please be back

MARIANGELA TIRADO - (REDIRECT)

1 at 2:00.

2 (Whereupon the Court took a lunch recess.)

3

4 A F T E R N O O N S E S S I O N

5 2:10 P.M.

6 **THE COURT:** Good afternoon. Please be seated.

7 Ms. Mizner.

8 **MS. MIZNER:** We will be calling Francisco Dolz as our  
9 next witness.

10 **THE COURT:** Will you be doing the examination?

11 **MS. MIZNER:** I will, Your Honor.

12 **THE CLERK:** Mr. Dolz, raise your right hand, please.

13 FRANCISCO DOLZ SANCHEZ,

14 after having first been duly sworn to state the truth, the  
15 whole truth and nothing but the truth, testified as follows:

16 **MS. MIZNER:** Your Honor, we are missing one of the  
17 attorneys, he will be back in a moment.

18 **THE COURT:** Well, why don't you start.

19 DIRECT EXAMINATION

20 **BY MS. MIZNER:**

21 **Q.** Would you please state your name for the record.

22 **A.** Francisco M. Dolz, D-O-L-Z, Sanchez.

23 **Q.** And what is your profession, Mr. Dolz?

24 **A.** I'm a lawyer.

25 **Q.** Are you admitted to practice before this court?

FRANCISCO DOLZ - (DIRECT BY MS. MIZNER)

1 A. Yes, ma'am.

2 Q. How long have you been admitted to practice here?

3 A. Since 1975, early '75.

4 Q. Have you conducted jury trials in this court?

5 A. Many.

6 Q. Approximately how many?

7 A. I don't have the slightest idea.

8 THE COURT: I'm sorry?

9 THE WITNESS: I don't have the slightest idea of how  
10 many trials I have.

11 THE COURT: Oh, "I don't have the slightest idea."

12 THE WITNESS: That's correct.

13 BY MS. MIZNER:

14 Q. You have conducted many trials in this courthouse?

15 A. That's correct.

16 Q. Did you represent a defendant in this case, 08-310, at  
17 trial?

18 A. That is correct.

19 Q. Who did you represent?

20 A. Wilfredo Rosario Camacho.

21 Q. You were present on January 20th for jury selection?

22 A. That is correct.

23 Q. And did you have a conversation with Mr. Rosario's sister  
24 that day?

25 A. I do recall having some kind of conversation. She was

FRANCISCO DOLZ - (DIRECT BY MS. MIZNER)

1 present throughout the case and she was very inquisitive about  
2 what was transpiring. So I did have many conversations with  
3 her.

4 Q. When you say she was present during the case, was she in  
5 the -- in the courtroom during the jury selection process?

6 A. Of course not. No, she was not.

7 Q. Were any members of Mr. Rosario's family in the court --  
8 or friends -- in the courtroom during the jury selection  
9 process?

10 A. No, ma'am.

11 Q. And what is your -- what was your understanding of the  
12 process for jury selection at that time in this courthouse?

13 A. Well, since I recall back in 1975, the public was never  
14 allowed during jury selection, that included even the  
15 attorneys not related to the case.

16 Q. Did you object to the exclusion of members of the public?

17 A. Not really. I don't think there was any use of that.  
18 Everybody was used to the public being excluded during jury  
19 selection, for my whole life.

20 Q. So this was not a strategic or tactical decision not to  
21 object?

22 A. No, it was not.

23 Q. Do you recall seeing anything about the doors of the  
24 courtroom during that day?

25 A. At one point in time white sheets of paper were put on the

FRANCISCO DOLZ - (DIRECT BY MS. MIZNER)

1 small glasses so that nobody could see inside of the  
2 courtroom.

3 Q. Did you see who put those pieces of paper in the door?

4 A. No, I didn't see that.

5 Q. Were they in the windows for the entire day or for part of  
6 the day?

7 A. Part of the day, or maybe the entire day until the  
8 selection was over.

9 Q. Were they --

10 THE COURT: Well, Mr. Dolz, you said that it was at  
11 one point in time. Was that during the day that the jury  
12 selection was conducted?

13 THE WITNESS: I'm sorry, Your Honor?

14 THE COURT: You said that the paper was placed on the  
15 door windows --

16 THE WITNESS: That is correct.

17 THE COURT: -- during a point in time. My question  
18 is whether it was during the day of jury selection?

19 THE WITNESS: That was during jury selection,  
20 Your Honor.

21 MS. MIZNER: May I have a moment, Your Honor?

22 THE COURT: Yes, of course.

23 MS. MIZNER: No more questions, Your Honor.

24 THE COURT: Cross examination.

25 CROSS EXAMINATION

FRANCISCO DOLZ - (CROSS BY MS. CASTELLON)

1 **BY MS. CASTELLON:**

2 **Q.** Counselor, you stated that you represented Wilfredo  
3 Rosario.

4 **A.** That is correct.

5 **Q.** And you did not submit any affidavit when you were  
6 approached by counselors that are representing Mr. Rosario?

7 **MS. MIZNER:** Objection.

8 **THE COURT:** Well, first of all, whether he was  
9 approached.

10 **MS. CASTELLON:** Let me rephrase.

11 **BY MS. CASTELLON:**

12 **Q.** Were you approached by Counselor Ignacio Fernandez  
13 regarding asking you questions, if people and members of the  
14 family were allowed into this courtroom while jury selection?

15 **A.** I believe I talked with him about the affidavit, providing  
16 an affidavit; not the contents.

17 **Q.** I'm sorry?

18 **A.** We didn't discuss contents.

19 **Q.** You were asked to provide an affidavit regarding the  
20 specific incident of family members not being allowed into  
21 this courtroom?

22 **A.** In the jury selection. During the jury selection.

23 **Q.** You were asked?

24 **A.** I was asked.

25 **Q.** Did you provide one?

FRANCISCO DOLZ - (CROSS BY MS. CASTELLON)

1 **A.** No, I did not.

2 **Q.** Why not?

3 **A.** I didn't see it necessary.

4 **Q.** Is it true that you discussed and I approached you  
5 regarding this specific matter?

6 **MS. MIZNER:** Objection, Your Honor.

7 **THE COURT:** Overruled.

8 **THE WITNESS:** I believe you asked me the reason why I  
9 had not provided an affidavit, and I don't recall what I told  
10 you.

11 **BY MS. CASTELLON:**

12 **Q.** Did you -- was your answer that you did not provide one  
13 because you didn't remember that incident happening?

14 **MS. MIZNER:** Objection, Your Honor, to a conversation  
15 between the attorney and the witness.

16 **MR. HERNANDEZ:** If she wants to be a witness, she's  
17 welcomed to sit down and testify. She can't testify through  
18 the testimony of another witness.

19 **MR. FERNANDEZ:** The problem is, I would say,  
20 Your Honor, it's improper impeachment.

21 **MS. CASTELLON:** It's refreshing the recollection of  
22 the witness, Your Honor.

23 **THE COURT:** Well, that's not what the question was.

24 **BY MS. CASTELLON:**

25 **Q.** Do you recall, does it refresh your recollection that you

FRANCISCO DOLZ - (CROSS BY MS. CASTELLON)

1 stated to this attorney that you did not provide one because  
2 you did not remember that incident happening?

3 **A.** I don't recall telling you that. I don't recall telling  
4 you that, because it would have been incorrect. I'm fully  
5 aware that the family members and the public was not allowed  
6 during jury selection.

7 **Q.** You were approached on that very same day?

8 **A.** By who?

9 **Q.** By the family members, that they were not being allowed to  
10 go inside the courtroom?

11 **A.** There could have been a conversation.

12 **Q.** No, I'm asking you, were you or were you not?

13 **A.** I don't have a clear recollection whether they approached  
14 me on that subject.

15 **Q.** Were you approached the day after?

16 **A.** I don't recall. I really don't recall.

17 **Q.** You don't recall.

18 You don't recall being approached by any other relatives  
19 of the Defendants regarding their being forbidden into the  
20 courtroom?

21 **A.** I don't have a clear recollection. If they had, I would  
22 have told them they were not allowed into the courtroom while  
23 jury selection was going on. That's what I would have told  
24 them.

25 **Q.** You were not going to object or do anything regarding that

FRANCISCO DOLZ - (CROSS BY MS. CASTELLON)

1 matter?

2 **A.** No, no, no.

3 **Q.** And it's your testimony, then, that since the year 1975  
4 you have not been claiming your client's right to a jury trial  
5 to be held in public?

6 **A.** Custom and usage, nobody did that, nobody objected to  
7 that.

8 **Q.** So as an attorney, you are telling this Court that even  
9 though you know that that is a Constitutional right, you have  
10 not addressed that in any of the cases that you have tried?

11 **A.** I don't think so.

12 **Q.** Before this courtroom?

13 **A.** I don't think so. It's never been brought up. I know  
14 what the procedure was, standard operational procedure:  
15 Public is excluded, family members are excluded, even  
16 attorneys are excluded.

17 That's been going on since I started back in 1975.

18 **Q.** Are you aware, and as an attorney, have you inquired and  
19 requested where is that standard procedure for the district  
20 written, if in any place?

21 **A.** No. No, I have not. I never did.

22 **Q.** And you're a member of the CJA panel?

23 **A.** I'm a member of the CJA panel. I was in the Federal  
24 Public Defender's Office for many years, and that was the  
25 standard operational procedure, the public was excluded.

FRANCISCO DOLZ - (CROSS BY MS. CASTELLON)

1 Q. And this is the first time that you testify regarding a  
2 similar situation, even though you've tried all those cases  
3 since 1975?

4 A. This is about the second time in my life I have to testify  
5 in a case that was mine.

6 Q. So are you aware of the First Circuit decision in Owens  
7 versus United States?

8 A. Of course. Of course.

9 Q. You are aware?

10 A. I'm aware of it.

11 Q. And you were aware that it's a decision that it's your  
12 duty to make that request on the behalf of your client?

13 A. If it was my duty, maybe I just let it go.

14 Q. Sorry?

15 A. If it was my duty, then I just let it pass.

16 Q. You failed to assert your client's right?

17 A. Well, it was, as I told you, standard operational  
18 procedure, people were excluded, public was excluded, even  
19 attorneys not related to the case were excluded, for 35 years  
20 that I have been in practice.

21 MS. CASTELLON: I have no further questions.

22 THE COURT: Any redirect?

23 MS. MIZNER: No, Your Honor.

24 THE COURT: Thank you very much, Mr. Dolz. You are  
25 excused.

1           **THE WITNESS:** Thank you.

2           **THE COURT:** Any further evidence from the Defense?

3           **MR. FERNANDEZ:** None, Your Honor.

4           **THE COURT:** Ms. Castellon, Mr. Henwood, any evidence?

5           **MR. HENWOOD:** We are going to re-call Mr. Carlos  
6 Sierra.

7           **THE COURT:** Mr. Sierra, please.

8           You have a seat, Mr. Sierra. You remain under the  
9 oath you took this morning.

10           Go ahead, Mr. Henwood.

11           **MR. HENWOOD:** Thank you.

12                                   DIRECT EXAMINATION

13 **BY MR. HENWOOD:**

14 **Q.** Mr. Sierra, I'm just going to ask you a couple more  
15 questions.

16           During that jury selection that took place on  
17 January 20th, 2010, do you recall locking the door so that  
18 people could not come in and out during the proceeding of jury  
19 selection?

20 **A.** No, sir.

21 **Q.** And do you recall putting pieces of paper on the windows  
22 during the jury selection so that people couldn't peer or look  
23 through the windows?

24 **A.** That's not the CSO's work.

25           **THE COURT:** The question is whether you did it or

1 not.

2 **THE WITNESS:** No.

3 **MR. HENWOOD:** Nothing further, Judge.

4 **THE COURT:** Any cross examination?

5 **MR. FERNANDEZ:** No, Your Honor.

6 **THE COURT:** Thank you very much, Mr. Sierra. You are  
7 excused.

8 Your first witness, Government -- or your second  
9 witness.

10 **MS. CASTELLON:** The United States will call deputy  
11 United States Marshal Miguel Portalatin.

12 **THE COURT:** Mr. Portalatin.

13 **MS. CASTELLON:** Good afternoon, sir.

14 **THE WITNESS:** Good afternoon.

15 **THE COURT:** Let's swear him in, please.

16 Mr. Portalatin, will you please rise.

17 **THE CLERK:** Raise your right hand, please.

18 MIGUEL PORTALATIN,

19 after having first been duly sworn to state the truth, the  
20 whole truth and nothing but the truth, testified as follows:

21 DIRECT EXAMINATION

22 **BY MS. CASTELLON:**

23 **Q.** Would you please state your name for the record.

24 **A.** My name is Miguel Portalatin.

25 **Q.** Sir, what is your occupation?

MIGUEL PORTALATIN - (DIRECT BY MS. CASTELLON)

1 A. I'm a deputy U.S. Marshal in the District of Puerto Rico.

2 Q. For how long have you been a deputy United States Marshal?

3 A. Close to ten years.

4 Q. In the year 2010 --

5 THE COURT: Mr. Portalatin -- excuse me -- have you  
6 been in Puerto Rico for all those 10 years?

7 THE WITNESS: No, sir. I spent two years in  
8 Los Angeles, from 2004 to 2006.

9 THE COURT: And then?

10 THE WITNESS: And then I came back. I started here,  
11 went to Los Angeles, and came back.

12 THE COURT: Thank you. So except for those two  
13 years, you have been a deputy here in Puerto Rico?

14 THE WITNESS: Yes, sir.

15 BY MS. CASTELLON:

16 Q. For those 10 years that you have been a deputy United  
17 States Marshal, what are your duties?

18 A. Some of my duties are to ensure the safety and security of  
19 the courthouse, arrest fugitives, judicial sales,  
20 extraditions.

21 Q. I bring your attention to January 20, 2010.

22 Were you working as a deputy United States Marshal for the  
23 District of Puerto Rico?

24 A. Yes, ma'am.

25 Q. Do you recall the duties that were assigned to you during

MIGUEL PORTALATIN - (DIRECT BY MS. CASTELLON)

1 that day?

2 A. Yes, I was in charge of the trial here with Judge Besosa.

3 Q. Do you recall the trial that was held before Judge Besosa  
4 on that date?

5 A. No, I don't.

6 Q. Do you remember, do you recall what was the case about?

7 A. Besosa's case?

8 Q. Yes.

9 A. It was a drug case.

10 Q. Drug case. Do you recognize the Defendants that were on  
11 trial before Judge Besosa, here in this courtroom today?

12 A. Yes, I do.

13 Q. So you were in charge of that trial against these  
14 Defendants, correct?

15 A. Yes.

16 Q. Do you recognize the Defendants that are here in the court  
17 as all the Defendants who were on trial?

18 A. Yes.

19 Q. So we have five of them, correct?

20 A. Yes.

21 Q. Can you explain and can you be specific as to what were  
22 your responsibilities as being in charge regarding that trial  
23 on that date?

24 A. Yes. Basically, my responsibility is to assign the  
25 personnel in the courthouse, ensure the safety and security of

MIGUEL PORTALATIN - (DIRECT BY MS. CASTELLON)

1 the prisoners and everyone else in the courtroom, and follow  
2 the guidelines from Judge Besosa.

3 Q. When you say following the guidelines from Judge Besosa,  
4 would that be then that you would follow the instructions  
5 regarding the management of the case in this courtroom?

6 A. Yes.

7 Q. And who would be the person in charge of what's going on  
8 inside this courtroom?

9 A. Well, Judge Besosa would be in charge, and I will follow  
10 his instructions.

11 Q. You will follow his instructions.

12 Do you recall at any point during that day, January 20,  
13 2010 -- and that was jury selection. Do you recall being here  
14 during jury selection, sir?

15 A. Yes.

16 Q. Do you recall receiving any instructions from Judge Besosa  
17 regarding closing this courtroom?

18 A. Not specifically from Judge Besosa. The courtroom was  
19 completely packed with the jurors, and usually if we don't  
20 have space -- first of all, we didn't close the doors. We  
21 just have enough space for jurors in the courtroom.

22 I didn't get any specific instructions from Judge Besosa  
23 as far as closing the door or leaving the door open.

24 Q. And do you recall that you posted a marshal, not allowing  
25 people to go in?

MIGUEL PORTALATIN - (DIRECT BY MS. CASTELLON)

1 A. We always have marshals in the entrance of the courtroom.

2 As a matter of fact, I was one of them and then Maldonado,

3 Deputy Maldonado was the other one.

4 Q. And people would go in and out of this courtroom?

5 A. Yes.

6 Q. Do you recall members of the jury venire leaving the

7 courtroom as they were being excused?

8 A. Yes.

9 Q. They would go freely?

10 A. Yes.

11 Q. They have -- the door had to be opened for them in order

12 to get to leave this courtroom?

13 A. Yes.

14 Q. Did they have to open it, it means it was locked, and

15 unlock the door?

16 A. No, the door was never locked.

17 Q. Was there any, at any point in time during that day, that

18 the courtroom--that the windows from this courtroom were

19 blocked --

20 A. No.

21 Q. -- with any type of paper?

22 A. No.

23 Q. That you recall?

24 A. I do recall. I do recall, because we remember -- I

25 remembered having to tell some of the people that were

MIGUEL PORTALATIN - (DIRECT BY MS. CASTELLON)

1 standing outside, standing on those two little windows, which  
2 disrupted the courtroom proceedings, and I know that  
3 Judge Besosa doesn't like people standing by the door, so I  
4 remember going outside to tell people, you know, you have to  
5 move.

6 **Q.** And do you recall that the members of the group were being  
7 allowed to go in once the members of the jury were leaving,  
8 people were filling the seats; do you recall that?

9 **A.** No, I do not.

10 **Q.** You do not recall that?

11 **THE COURT:** Mr. Portalatin, you mentioned that  
12 Deputy Maldonado was the person at the door?

13 **THE WITNESS:** Not all the time.

14 **THE COURT:** Okay. Did you give any of the deputies  
15 under your charge that day instructions not to let people in?

16 **THE WITNESS:** No, I did not.

17 **BY MS. CASTELLON:**

18 **Q.** Who will give the instructions to the court security  
19 officer in this courtroom?

20 **A.** I would or Maldonado would also.

21 **Q.** As the deputy?

22 **A.** Right.

23 **Q.** Did you give any orders to the court security officer,  
24 Carlos Sierra, on that date not to allow people to go in this  
25 courtroom?

MIGUEL PORTALATIN - (DIRECT BY MS. CASTELLON)

1 A. I never gave anyone orders to not allow anyone to come in,  
2 because, like I mentioned before, we didn't have space, so I  
3 didn't have to tell anybody, "Don't let anybody in," because  
4 we didn't have space.

5 Q. Did you give him any orders to block the glass window of  
6 the door --

7 A. No.

8 Q. -- of this courtroom?

9 A. No.

10 Q. Is any court security officer posted on that back door  
11 during jury selection, or it has to be a deputy marshal?

12 A. The personnel in the back area of the courthouse were all  
13 marshals and the DSOs.

14 The CSO would always be posted right here, close to the  
15 Judge's door and the entrance and exit for the jury.

16 Q. So he wouldn't be posted at the door?

17 A. No.

18 Q. And he wouldn't be controlling the entrance by locking or  
19 unlocking, if that would be the case?

20 A. No.

21 Q. Would you allow it?

22 A. No.

23 MS. CASTELLON: I have no further questions.

24 THE COURT: Cross examination. Mr. Fernandez.

25 CROSS EXAMINATION

MIGUEL PORTALATIN - (CROSS BY MR. FERNANDEZ)

1 **BY MR. FERNANDEZ:**

2 **Q.** Good afternoon, sir.

3 **A.** Good afternoon.

4 **Q.** Sir, could you please tell me, getting back to jury  
5 selection on that day, January 20, 2010, how packed was the  
6 courtroom?

7 **A.** Packed.

8 **Q.** What do you mean "packed"? All these seats were taken?

9 **A.** All those seats taken.

10 **Q.** All these seats were taken?

11 **A.** Yes.

12 **Q.** How about these seats?

13 **A.** All taken.

14 **Q.** By whom?

15 **A.** By jury.

16 **Q.** Do you recall seeing any family members inside the  
17 courtroom during jury selection?

18 **A.** No.

19 **MR. FERNANDEZ:** Thank you.

20 **THE COURT:** Any redirect, Ms. Castellon?

21 **MS. MIZNER:** Your Honor, may I ask?

22 **THE COURT:** Of course, yes.

23 CROSS EXAMINATION

24 **BY MS. MIZNER:**

25 **Q.** Good afternoon.

MIGUEL PORTALATIN - (CROSS BY MS. MIZNER)

1 A. Good afternoon.

2 Q. I believe you testified on direct that you at one point  
3 had to tell some people to move away from the door?

4 A. From the outside, yes.

5 Q. And those were people who were not jurors?

6 A. Yes.

7 Q. And were those people who were attempting to enter the  
8 courtroom?

9 A. They would stand by the door to look inside.

10 Q. And they were not allowed to come in --

11 A. No.

12 Q. -- at that time?

13 MS. MIZNER: Thank you.

14 THE COURT: Any further cross examination?  
15 Any redirect, Ms. Castellon?

16 MS. CASTELLON: No, Your Honor.

17 THE COURT: Thank you very much, Mr. Portalatin.

18 THE WITNESS: Thank you.

19 THE COURT: You're excused.

20 Next witness, please.

21 MS. CASTELLON: No further witness, Your Honor.

22 THE COURT: From what we spoke during the sidebar, I  
23 believe that the next order of business would be for me to  
24 enter some findings of fact and remit those findings of fact  
25 along with the transcript to the First Circuit Court of

1 Appeals. Am I correct?

2 **MR. FERNANDEZ:** Yes, Your Honor.

3 **THE COURT:** Is there anything else that we have to do  
4 today? Ms. Mizner.

5 **MS. MIZNER:** No, Your Honor. I have one question,  
6 though. Would the Court like proposed findings of facts from  
7 the parties?

8 **THE COURT:** That would be nice, yes. I would  
9 appreciate that.

10 **MS. MIZNER:** After we get the transcript.

11 **THE COURT:** Of course. I would appreciate that.

12 Ms. Castellon, Mr. Henwood, proposed findings of fact,  
13 let's say 15 days once you receive the transcript? Okay?

14 All right. Thank you very much.

15 **MS. CASTELLON:** Your Honor, if we receive the  
16 transcript during the last week of July, can we request AN  
17 additional time, because we are going to be --

18 **THE COURT:** You are going to be on trial?

19 **MS. CASTELLON:** No, we are going to be taking some  
20 time off, that's going to be the first, and we are going to be  
21 away from the office for the last two weeks of July.

22 **THE COURT:** I'll tell you what, let's have those  
23 findings of fact by August 15. Okay?

24 Mr. Fernandez.

25 **MR. FERNANDEZ:** Yes, another thing, Your Honor.

1 Would it be all right if the Defendants remain here in  
2 San Juan until all the matters are disposed of, until all the  
3 findings of fact are filed and Your Honor is able to send a  
4 complete record up to the Court of Appeals?

5 **MS. CASTELLON:** I have to object, Your Honor. I  
6 understand they are under the custody of the Bureau of  
7 Prisons.

8 **THE COURT:** They are under the custody of the Bureau  
9 of Prisons. Let me find out about that. I'll get back to you  
10 on that, please.

11 They didn't participate in the proceedings.

12 **MS. CASTELLON:** There would be no additional  
13 testimony regarding this matter. It's submitted to the Court,  
14 to the determination of the Court. I don't see any need for  
15 them to be here.

16 **THE COURT:** This is something new for me. So let me  
17 discuss this with the marshals and the Bureau of Prisons, and  
18 I'll let you know by the beginning of next week.

19 **MR. FERNANDEZ:** My point is -- I understand my  
20 sister's point and it's certainly well taken, but certainly,  
21 since they are here, they can certainly help, at least my  
22 client can help me with the appeal also.

23 I mean, since they are here already, you know --

24 **THE COURT:** I understand your point.

25 **MR. FERNANDEZ:** Why don't just leave them 30 days or

1 45 days.

2           **THE COURT:** I understand your point, but that's not  
3 the proper -- you know, that's not -- now that you're talking  
4 about the procedure of the District. But I will get back to  
5 you on that.

6           **MR. FERNANDEZ:** Thank you, Your Honor.

7           **MS. MIZNER:** Your Honor, is the Court going to order  
8 the transcript?

9           **THE COURT:** Yes. Yes.

10           What I would suggest is that one attorney order it for  
11 CJA purposes, and then you can make the appropriate copies for  
12 the rest of them, the rest of you. Okay?

13           **MS. MIZNER:** Thank you, Your Honor.

14           **THE COURT:** That's what we did during the trial, in  
15 any event.

16           Thank you very much.

17           (Whereupon this hearing was concluded.)

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## 1 REPORTER'S CERTIFICATE

2  
3 I, ZULMA M. RUIZ, Official Court Reporter for the  
4 United States District Court for the District of Puerto Rico,  
5 appointed pursuant to the provisions of Title 28, United States  
6 Code, Section 753, do hereby certify that the foregoing is a  
7 true and correct computer-aided transcript of proceedings had  
8 in the within-entitled and numbered cause on the date herein  
9 set forth; and I do further certify that the foregoing  
10 transcript has been prepared by me or under my direction.

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16 S/Zulma M. Ruiz

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18 Official Court Reporter  
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